

As Passed by the House

129th General Assembly

Regular Session

2011-2012

Am. Sub. H. B. No. 487

Representative Amstutz (By Request)

**Cosponsors: Representatives Beck, Blair, Buchy, Combs, McClain, Sears,
Sprague, Stebelton, Terhar, Wachtmann**

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| and 701.40 of Am. Sub. H.B. 153 of the 129th | 273 |
| General Assembly, Sections 247.10, 261.10, and | 274 |
| 261.20.93 of Am. Sub. H.B. 153 of the 129th | 275 |
| General Assembly, as subsequently amended, Section | 276 |
| 4 of Sub. S.B. 171 of the 129th General Assembly, | 277 |
| Section 3 of Am. Sub. S.B. 160 of the 121st | 278 |
| General Assembly, and Section 3 of Am. Sub. S.B. | 279 |
| 38 of the 120th General Assembly; to repeal | 280 |
| Sections 261.10.10, 261.10.20, 261.10.30, | 281 |
| 261.10.50, 261.10.60, 261.10.80, 261.10.90, | 282 |
| 261.20.20, 261.20.70, 261.30.50, and 263.10.80 of | 283 |
| Am. Sub. H.B. 153 of the 129th General Assembly; | 284 |
| and to amend the versions of sections 5122.31, | 285 |
| 5123.19, and 5123.61 of the Revised Code that are | 286 |

scheduled to take effect October 1, 2012, to 287
continue the provisions of this act on and after 288
that effective date; to make operating and other 289
appropriations and to provide authorization and 290
conditions for the operation of state programs. 291

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

Section 101.01. That sections 7.10, 7.16, 9.34, 9.90, 9.91, 292
102.02, 103.51, 105.41, 109.57, 109.572, 121.04, 121.08, 121.083, 293
121.084, 122.07, 123.01, 123.011, 123.07, 123.09, 123.10, 123.101, 294
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| 5731.39, 5733.064, 5739.01, 5743.03, 5743.031, 5751.033, 5751.12, | 411 |
| 6109.21, and 6111.46 be amended; sections 123.011 (123.22), | 412 |

123.024 (123.06), 123.04 (123.02), 123.07 (123.03), 123.08 413
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185.05 (3701.925), 185.06 (3701.926), 185.07 (3701.927), 185.09 419
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(3702.522), 3702.524 (3702.523), 3702.525 (3702.524), 3702.526 426
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(4781.27), 3733.04 (4781.28), 3733.05 (4781.29), 3733.06 429
(4781.30), 3733.07 (4781.301), 3733.08 (4781.35), 3733.09 430
(4781.36), 3733.091 (4781.37), 3733.10 (4781.38), 3733.101 431
(4781.39), 3733.11 (4781.40), 3733.12 (4781.41), 3733.121 432
(4781.42), 3733.122 (4781.43), 3733.123 (4781.44), 3733.13 433
(4781.45), 3733.14 (4781.46), 3733.15 (4781.47), 3733.16 434
(4781.48), 3733.17 (4781.49), 3733.18 (4781.50), 3733.19 435
(4781.51), 3733.20 (4781.52), 5123.169 (5123.1610), 5503.21 436
(5502.05), 5503.22 (5502.06), and 5503.23 (5502.07) be amended for 437
the purpose of adopting new section numbers as indicated in 438
parentheses; and new sections 123.21, 3333.90, 3702.526, 4905.80, 439
4905.81, 4921.01, 4921.03, 4921.05, 4921.07, 4921.09, 4921.11, 440
4921.13, 4921.15, 4921.16, 4921.19, 4921.25, 4921.30, 4921.32, 441
4921.36, 4921.38, 4923.01, 4923.02, 4923.04, 4923.06, 4923.07, 442
4923.09, 4923.11, 4923.99, 5123.169, and 5123.192 and sections 443
121.35, 122.862, 123.20, 123.201, 123.23, 123.26, 191.01, 191.02, 444

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4731.297, 4781.121, 4781.54, 4921.21, 4921.34, 4923.15, 5111.246, 452
5111.946, 5111.96, 5112.331, 5139.511, 5705.252, 5705.72, and 453
5713.012 of the Revised Code be enacted to read as follows: 454

Sec. 7.10. For the publication of advertisements, notices, 455
and proclamations, except those relating to proposed amendments to 456
the Ohio Constitution, required to be published by a public 457
officer of the state, a benevolent or other public institution, a 458
trustee, assignee, executor, or administrator, or by or in any 459
court of record, except when the rate is otherwise fixed by law, 460
publishers of newspapers may charge and receive for such 461
advertisements, notices, and proclamations rates charged on annual 462
contracts by them for a like amount of space to other advertisers 463
who advertise in its general display advertising columns. 464

For the publication of advertisements, notices, or 465
proclamations required to be published by a public officer of a 466
county, municipal corporation, township, school, or other 467
political subdivision, publishers of newspapers shall establish a 468
government rate, which shall include free publication of 469
advertisements, notices, or proclamations on the newspaper's 470
internet web site, if the newspaper has one. The government rate 471
shall not exceed the lowest classified advertising rate and lowest 472
insert rate paid by other advertisers. 473

Legal advertising, except that relating to proposed 474
amendments to the Ohio Constitution, shall be set up in a compact 475

form, without unnecessary spaces, blanks, or headlines, and 476
printed in not smaller than six-point type. The type used must be 477
of such proportions that the body of the capital letter M is no 478
wider than it is high and all other letters and characters are in 479
proportion. 480

Except as provided in section 2701.09 of the Revised Code, 481
all legal advertisements or notices shall be printed in ~~newspapers~~ 482
a newspaper of general circulation ~~and also shall be posted on the~~ 483
~~state public notice web site created under section 125.182 of the~~ 484
~~Revised Code,~~ and on a the newspaper's internet web site, if the 485
newspaper has one. 486

Sec. 7.16. (A) As used in this section: 487

(1) "State agency" means any organized body, office, agency, 488
institution, or other entity established by the laws of the state 489
for the exercise of any function of state government, including 490
state institutions of higher education, as defined in section 491
3345.011 of the Revised Code. 492

(2) "Political subdivision" has the meaning defined in 493
section 2744.01 of the Revised Code. 494

(B) If a section of the Revised Code or an administrative 495
rule requires a state agency or a political subdivision ~~of the~~ 496
~~state~~ to publish a notice or advertisement two or more times in a 497
newspaper of general circulation and the section or administrative 498
rule refers to this section, the first publication of the notice 499
or advertisement shall be made in its entirety in a newspaper of 500
general circulation and may be made in a preprinted insert in the 501
newspaper, but the second publication otherwise required by that 502
section or administrative rule may be made in abbreviated form in 503
a newspaper of general circulation in the state or in the 504
political subdivision, as designated in that section or 505
administrative rule, and on the newspaper's internet web site, if 506

the newspaper has one. The state agency or political subdivision 507
may eliminate any further newspaper publications required by that 508
section or administrative rule, provided that the second, 509
abbreviated notice or advertisement meets all of the following 510
requirements: 511

(1) It is published in the newspaper of general circulation 512
in which the first publication of the notice or advertisement was 513
made and is published on that newspaper's internet web site, if 514
the newspaper has one. 515

(2) It is published on the state public notice web site 516
established under section 125.182 of the Revised Code. 517

(3) It includes a title, followed by a summary paragraph or 518
statement that clearly describes the specific purpose of the 519
notice or advertisement, and includes a statement that the notice 520
or advertisement is posted in its entirety on the state public 521
notice web site ~~established under section 125.182 of the Revised~~ 522
~~Code.~~ The notice or advertisement also may be posted on the state 523
agency's or political subdivision's internet web site. 524

~~(3)~~(4) It includes the internet addresses of the state public 525
notice web site, and of the newspaper's and state agency's or 526
political subdivision's internet web site if the notice or 527
advertisement is posted on those web sites, and the name, address, 528
telephone number, and electronic mail address of the state agency, 529
political subdivision, or other party responsible for publication 530
of the notice or advertisement. 531

~~(B)~~(C) A notice or advertisement published under this section 532
on an internet web site shall be published in its entirety in 533
accordance with the section of the Revised Code or the 534
administrative rule that requires the publication. 535

~~(C)~~(D) ~~If a state agency or political subdivision does not 536~~
~~operate and maintain, or ceases to operate and maintain, an 537~~

~~internet web site, and if~~ the state public notice web site 538
established under section 125.182 of the Revised Code is not 539
operational, the state agency or political subdivision shall not 540
publish a notice or advertisement under this section, but instead 541
shall comply with the publication requirements of the section of 542
the Revised Code or the administrative rule that refers to this 543
section. 544

Sec. 9.34. (A) The fiscal year of the state ~~and of,~~ every 545
school district, and, beginning July 1, 2013, the city of 546
Cincinnati, shall begin on the first day of July of each calendar 547
year and end at the close of the thirtieth day of June of the 548
succeeding calendar year. The fiscal year of every school library 549
district, and all political subdivisions or taxing ~~districts~~ units 550
except school districts and the city of Cincinnati, and of every 551
officer, department, commission, board, or institution thereof, 552
shall begin at the opening of the first day of January of each 553
calendar year and end at the close of the succeeding thirty-first 554
day of December. Except as otherwise provided for school districts 555
and as otherwise provided in division (B) of this section, all 556
laws relating to the levying of taxes, the collection, 557
appropriation, or expenditure of revenues, or the making of 558
financial reports or statements for a fiscal year or other year 559
refer and apply to the fiscal year as defined in this division. 560
Reports required by sections 3319.32 to 3319.37 of the Revised 561
Code shall be for the school year as defined in section 3313.62 of 562
the Revised Code. 563

(B) Nothing in this section prohibits a subdivision, other 564
than a school district or county school financing district, from 565
using a different fiscal year or other fiscal period for one or 566
more of its funds, including when that fiscal year or period is 567
the same as the fiscal year of an entity providing money for the 568
fund or the fiscal period of a capital project. Use of a different 569

fiscal year or period shall be consistent with generally accepted 570
accounting principles, and shall be approved by the fiscal officer 571
of the subdivision and by the auditor of state. If a subdivision 572
uses a different fiscal year or period under this section, the 573
auditor of state may require the subdivision to continue to 574
maintain financial reports or statements on the basis of the 575
fiscal year prescribed by division (A) of this section. 576

(C) Taxes or other revenues collected in or on hand in any 577
fiscal year for the purposes of the next or any subsequent fiscal 578
year shall not be appropriated or expended prior to such next or 579
subsequent year. School district property taxes shall be subject 580
to appropriation as provided in division (B) of section 5705.35 of 581
the Revised Code. Budgets shall be designated and known by the 582
fiscal year for the purposes for which they are made. 583

(D) As used in this section, "fiscal officer," "school 584
library district," "subdivision," and "taxing ~~district~~ unit" have 585
the same meanings as in section 5705.01 of the Revised Code. 586

Sec. 9.90. (A) The following applies until the department of 587
administrative services implements healthcare plans designed under 588
section 9.901 of the Revised Code. If those plans do not include 589
or address any benefits listed in this section, or if the board of 590
trustees or other governing body of a state institution of higher 591
education, as defined in section 3345.011 of the Revised Code, 592
board of education of a school district, or governing board of an 593
educational service center do not elect to be covered under a plan 594
offered by the department of administrative services under section 595
9.901 of the Revised Code, the following provisions continue in 596
effect for those benefits. The board of trustees or other 597
governing body of a state institution of higher education, as 598
defined in section 3345.011 of the Revised Code, board of 599
education of a school district, or governing board of an 600

educational service center may, in addition to all other powers 601
provided in the Revised Code: 602

(1) Contract for, purchase, or otherwise procure from an 603
insurer or insurers licensed to do business by the state of Ohio 604
for or on behalf of such of its employees as it may determine, 605
life insurance, or sickness, accident, annuity, endowment, health, 606
medical, hospital, dental, or surgical coverage and benefits, or 607
any combination thereof, by means of insurance plans or other 608
types of coverage, family, group or otherwise, and may pay from 609
funds under its control and available for such purpose all or any 610
portion of the cost, premium, or charge for such insurance, 611
coverage, or benefits. However, the governing board, in addition 612
to or as an alternative to the authority otherwise granted by 613
division (A)(1) of this section, may elect to procure coverage for 614
health care services, for or on behalf of such of its employees as 615
it may determine, by means of policies, contracts, certificates, 616
or agreements issued by at least two health insuring corporations 617
holding a certificate of authority under Chapter 1751. of the 618
Revised Code and may pay from funds under the governing board's 619
control and available for such purpose all or any portion of the 620
cost of such coverage. 621

(2) Make payments to a custodial account for ~~investment in~~ 622
~~regulated investment company stock for the purpose of providing~~ 623
~~retirement benefits as described in section~~ procurement of an 624
annuity qualified under Internal Revenue Code 403(b)(7) ~~of the~~ 625
~~Internal Revenue Code of 1954, as amended. Such stock shall be~~ 626
~~purchased only from persons authorized to sell such stock in this~~ 627
~~state.~~ 628

Any income of an employee deferred under divisions (A)(1) and 629
(2) of this section in a deferred compensation program eligible 630
for favorable tax treatment under the Internal Revenue Code of 631
1954, as amended, shall continue to be included as regular 632

compensation for the purpose of computing the contributions to and 633
benefits from the retirement system of such employee. Any sum so 634
deferred shall not be included in the computation of any federal 635
and state income taxes withheld on behalf of any such employee. 636

(B) All or any portion of the cost, premium, or charge 637
therefor may be paid in such other manner or combination of 638
manners as the board or governing body may determine, including 639
direct payment by the employee in cases under division (A)(1) of 640
this section, and, if authorized in writing by the employee in 641
cases under division (A)(1) or (2) of this section, by the board 642
or governing body with moneys made available by deduction from or 643
reduction in salary or wages or by the foregoing of a salary or 644
wage increase. Nothing in section 3917.01 or section 3917.06 of 645
the Revised Code shall prohibit the issuance or purchase of group 646
life insurance authorized by this section by reason of payment of 647
premiums therefor by the board or governing body from its funds, 648
and such group life insurance may be so issued and purchased if 649
otherwise consistent with the provisions of sections 3917.01 to 650
3917.07 of the Revised Code. 651

(C) The board of education of any school district may 652
exercise any of the powers granted to the governing boards of 653
public institutions of higher education under divisions (A) and 654
(B) of this section. All health care benefits provided to persons 655
employed by the public schools of this state shall be through 656
health care plans that contain best practices established by the 657
department of administrative services pursuant to section 9.901 of 658
the Revised Code. 659

(D) Once the department of administrative services releases 660
in final form health care plans designed under section 9.901 of 661
the Revised Code, all health care benefits provided to persons 662
employed by state institutions of higher education, school 663
districts, or educational service centers may be through those 664

plans. 665

Sec. 9.91. If the (A) Both of the following apply when a 666
governing board of a public institution of higher education or the 667
board of education of a school district procures a ~~tax sheltered~~ 668
an annuity for an employee, pursuant to division (A)(1) or (2) of 669
section 9.90 of the Revised Code, that meets: 670

(1) No annuity contract may be procured unless it meets the 671
requirements of ~~section 403(b) of the Internal Revenue Code of~~ 672
~~1954, 26 U.S.C.A. 403(b), the employee has the right to;~~ 673

(2) The board shall arrange for the procurement of the 674
annuity contract by doing one of the following: 675

(a) Selecting one or more providers of annuities through a 676
competitive bidding process; 677

(b) In accordance with division (B) of this section, 678
selecting vendors designated under Chapter 3305.03 of the Revised 679
Code as the providers of the annuities; 680

(c) Requiring the employee to designate ~~the~~ a licensed agent, 681
broker, or company through whom the board shall arrange for the 682
placement or purchase of the tax sheltered annuity as the 683
provider. ~~In~~ 684

(B)(1) All of the following apply to the selection of 685
providers under division (A)(2)(b) of this section: 686

(a) The board may require providers of the annuities to enter 687
into agreements with the board that include such terms and 688
conditions as are determined by the board in its sole discretion; 689

(b) The board shall select as annuity providers a minimum of 690
four vendors designated under section 3305.03 of the Revised Code, 691
or, if fewer than four vendors are available, the number of 692
vendors available, except that a board is not required to select a 693
vendor to which any of the following apply: 694

(i) The vendor is not willing to provide annuity contracts to the public institution of higher education or school district. 695
696

(ii) The vendor is not willing to agree to the terms and conditions established by the board under division (B)(1)(a) of this section. 697
698
699

(iii) The vendor does not offer an annuity contract that is a defined contribution plan qualified under Internal Revenue Code 403(b) and is offered by the vendor in at least one other state. 700
701
702

(2) Both of the following apply to an agreement with an annuity provider selected by a board under division (A)(2)(b) of this section: 703
704
705

(a) The agreement shall be terminated if the provider ceases to be designated as a vendor under section 3305.03 of the Revised Code. 706
707
708

(b) The agreement may be terminated if the provider fails to comply with the terms and conditions established by the board under division (B)(1)(a) of this section. 709
710
711

(3) The Ohio board of regents may develop a standardized plan document that may be used by a governing board of a public institution of higher education or the board of education of a school district when entering into an agreement with a provider under division (B)(1)(a) of this section. The board may charge providers fees to cover any administrative and marketing expenses of the board, as determined by the board. 712
713
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(C) Except as provided in division (D) of this section, in any case in which the employee has designated ~~such~~ an agent, broker, or company under division (A)(2)(c) of this section, the board shall comply with the designation, provided that the board may impose either or both of the following as conditions to complying with any such designations: 719
720
721
722
723
724

~~(A)(1)~~ The designee must execute a reasonable agreement 725
protecting the institution or district from any liability 726
attendant to procuring the annuity; 727

~~(B)(2)~~ The designee must be designated by a number of 728
employees equal to at least one per cent of the board's full-time 729
employees or at least five employees, whichever is greater, except 730
that the board may not require that the agent, broker, or company 731
be designated by more than fifty employees. 732

(D) The board may require an employee who has made a 733
designation under division (A)(2)(c) of this section to designate 734
a provider selected by the board under divisions (A)(2)(a) or (b) 735
of this section as the provider of the employee's annuity. The 736
selection shall take effect at the earlier of the termination of 737
the contract with the designated provider or the renewal of the 738
contract. 739

Sec. 102.02. (A) Except as otherwise provided in division (H) 740
of this section, all of the following shall file with the 741
appropriate ethics commission the disclosure statement described 742
in this division on a form prescribed by the appropriate 743
commission: every person who is elected to or is a candidate for a 744
state, county, or city office and every person who is appointed to 745
fill a vacancy for an unexpired term in such an elective office; 746
all members of the state board of education; the director, 747
assistant directors, deputy directors, division chiefs, or persons 748
of equivalent rank of any administrative department of the state; 749
the president or other chief administrative officer of every state 750
institution of higher education as defined in section 3345.011 of 751
the Revised Code; the executive director and the members of the 752
capitol square review and advisory board appointed or employed 753
pursuant to section 105.41 of the Revised Code; all members of the 754
Ohio casino control commission, the executive director of the 755

commission, all professional employees of the commission, and all 756
technical employees of the commission who perform an internal 757
audit function; the individuals set forth in division (B)(2) of 758
section 187.03 of the Revised Code; the chief executive officer 759
and the members of the board of each state retirement system; each 760
employee of a state retirement board who is a state retirement 761
system investment officer licensed pursuant to section 1707.163 of 762
the Revised Code; the members of the Ohio retirement study council 763
appointed pursuant to division (C) of section 171.01 of the 764
Revised Code; employees of the Ohio retirement study council, 765
other than employees who perform purely administrative or clerical 766
functions; the administrator of workers' compensation and each 767
member of the bureau of workers' compensation board of directors; 768
the bureau of workers' compensation director of investments; the 769
chief investment officer of the bureau of workers' compensation; 770
all members of the board of commissioners on grievances and 771
discipline of the supreme court and the ethics commission created 772
under section 102.05 of the Revised Code; every business manager, 773
treasurer, or superintendent of a city, local, exempted village, 774
joint vocational, or cooperative education school district or an 775
educational service center; every person who is elected to or is a 776
candidate for the office of member of a board of education of a 777
city, local, exempted village, joint vocational, or cooperative 778
education school district or of a governing board of an 779
educational service center that has a total student count of 780
twelve thousand or more as most recently determined by the 781
department of education pursuant to section 3317.03 of the Revised 782
Code; every person who is appointed to the board of education of a 783
municipal school district pursuant to division (B) or (F) of 784
section 3311.71 of the Revised Code; all members of the board of 785
directors of a sanitary district that is established under Chapter 786
6115. of the Revised Code and organized wholly for the purpose of 787
providing a water supply for domestic, municipal, and public use, 788

and that includes two municipal corporations in two counties; 789
every public official or employee who is paid a salary or wage in 790
accordance with schedule C of section 124.15 or schedule E-2 of 791
section 124.152 of the Revised Code; members of the board of 792
trustees and the executive director of the southern Ohio 793
agricultural and community development foundation; all members 794
appointed to the Ohio livestock care standards board under section 795
904.02 of the Revised Code; and every other public official or 796
employee who is designated by the appropriate ethics commission 797
pursuant to division (B) of this section. 798

The disclosure statement shall include all of the following: 799

(1) The name of the person filing the statement and each 800
member of the person's immediate family and all names under which 801
the person or members of the person's immediate family do 802
business; 803

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 804
and except as otherwise provided in section 102.022 of the Revised 805
Code, identification of every source of income, other than income 806
from a legislative agent identified in division (A)(2)(b) of this 807
section, received during the preceding calendar year, in the 808
person's own name or by any other person for the person's use or 809
benefit, by the person filing the statement, and a brief 810
description of the nature of the services for which the income was 811
received. If the person filing the statement is a member of the 812
general assembly, the statement shall identify the amount of every 813
source of income received in accordance with the following ranges 814
of amounts: zero or more, but less than one thousand dollars; one 815
thousand dollars or more, but less than ten thousand dollars; ten 816
thousand dollars or more, but less than twenty-five thousand 817
dollars; twenty-five thousand dollars or more, but less than fifty 818
thousand dollars; fifty thousand dollars or more, but less than 819
one hundred thousand dollars; and one hundred thousand dollars or 820

more. Division (A)(2)(a) of this section shall not be construed to 821
require a person filing the statement who derives income from a 822
business or profession to disclose the individual items of income 823
that constitute the gross income of that business or profession, 824
except for those individual items of income that are attributable 825
to the person's or, if the income is shared with the person, the 826
partner's, solicitation of services or goods or performance, 827
arrangement, or facilitation of services or provision of goods on 828
behalf of the business or profession of clients, including 829
corporate clients, who are legislative agents. A person who files 830
the statement under this section shall disclose the identity of 831
and the amount of income received from a person who the public 832
official or employee knows or has reason to know is doing or 833
seeking to do business of any kind with the public official's or 834
employee's agency. 835

(b) If the person filing the statement is a member of the 836
general assembly, the statement shall identify every source of 837
income and the amount of that income that was received from a 838
legislative agent during the preceding calendar year, in the 839
person's own name or by any other person for the person's use or 840
benefit, by the person filing the statement, and a brief 841
description of the nature of the services for which the income was 842
received. Division (A)(2)(b) of this section requires the 843
disclosure of clients of attorneys or persons licensed under 844
section 4732.12 of the Revised Code, or patients of persons 845
certified under section 4731.14 of the Revised Code, if those 846
clients or patients are legislative agents. Division (A)(2)(b) of 847
this section requires a person filing the statement who derives 848
income from a business or profession to disclose those individual 849
items of income that constitute the gross income of that business 850
or profession that are received from legislative agents. 851

(c) Except as otherwise provided in division (A)(2)(c) of 852

this section, division (A)(2)(a) of this section applies to 853
attorneys, physicians, and other persons who engage in the 854
practice of a profession and who, pursuant to a section of the 855
Revised Code, the common law of this state, a code of ethics 856
applicable to the profession, or otherwise, generally are required 857
not to reveal, disclose, or use confidences of clients, patients, 858
or other recipients of professional services except under 859
specified circumstances or generally are required to maintain 860
those types of confidences as privileged communications except 861
under specified circumstances. Division (A)(2)(a) of this section 862
does not require an attorney, physician, or other professional 863
subject to a confidentiality requirement as described in division 864
(A)(2)(c) of this section to disclose the name, other identity, or 865
address of a client, patient, or other recipient of professional 866
services if the disclosure would threaten the client, patient, or 867
other recipient of professional services, would reveal details of 868
the subject matter for which legal, medical, or professional 869
advice or other services were sought, or would reveal an otherwise 870
privileged communication involving the client, patient, or other 871
recipient of professional services. Division (A)(2)(a) of this 872
section does not require an attorney, physician, or other 873
professional subject to a confidentiality requirement as described 874
in division (A)(2)(c) of this section to disclose in the brief 875
description of the nature of services required by division 876
(A)(2)(a) of this section any information pertaining to specific 877
professional services rendered for a client, patient, or other 878
recipient of professional services that would reveal details of 879
the subject matter for which legal, medical, or professional 880
advice was sought or would reveal an otherwise privileged 881
communication involving the client, patient, or other recipient of 882
professional services. 883

(3) The name of every corporation on file with the secretary 884
of state that is incorporated in this state or holds a certificate 885

of compliance authorizing it to do business in this state, trust, 886
business trust, partnership, or association that transacts 887
business in this state in which the person filing the statement or 888
any other person for the person's use and benefit had during the 889
preceding calendar year an investment of over one thousand dollars 890
at fair market value as of the thirty-first day of December of the 891
preceding calendar year, or the date of disposition, whichever is 892
earlier, or in which the person holds any office or has a 893
fiduciary relationship, and a description of the nature of the 894
investment, office, or relationship. Division (A)(3) of this 895
section does not require disclosure of the name of any bank, 896
savings and loan association, credit union, or building and loan 897
association with which the person filing the statement has a 898
deposit or a withdrawable share account. 899

(4) All fee simple and leasehold interests to which the 900
person filing the statement holds legal title to or a beneficial 901
interest in real property located within the state, excluding the 902
person's residence and property used primarily for personal 903
recreation; 904

(5) The names of all persons residing or transacting business 905
in the state to whom the person filing the statement owes, in the 906
person's own name or in the name of any other person, more than 907
one thousand dollars. Division (A)(5) of this section shall not be 908
construed to require the disclosure of debts owed by the person 909
resulting from the ordinary conduct of a business or profession or 910
debts on the person's residence or real property used primarily 911
for personal recreation, except that the superintendent of 912
financial institutions shall disclose the names of all 913
state-chartered savings and loan associations and of all service 914
corporations subject to regulation under division (E)(2) of 915
section 1151.34 of the Revised Code to whom the superintendent in 916
the superintendent's own name or in the name of any other person 917

owes any money, and that the superintendent and any deputy 918
superintendent of banks shall disclose the names of all 919
state-chartered banks and all bank subsidiary corporations subject 920
to regulation under section 1109.44 of the Revised Code to whom 921
the superintendent or deputy superintendent owes any money. 922

(6) The names of all persons residing or transacting business 923
in the state, other than a depository excluded under division 924
(A)(3) of this section, who owe more than one thousand dollars to 925
the person filing the statement, either in the person's own name 926
or to any person for the person's use or benefit. Division (A)(6) 927
of this section shall not be construed to require the disclosure 928
of clients of attorneys or persons licensed under section 4732.12 929
or 4732.15 of the Revised Code, or patients of persons certified 930
under section 4731.14 of the Revised Code, nor the disclosure of 931
debts owed to the person resulting from the ordinary conduct of a 932
business or profession. 933

(7) Except as otherwise provided in section 102.022 of the 934
Revised Code, the source of each gift of over seventy-five 935
dollars, or of each gift of over twenty-five dollars received by a 936
member of the general assembly from a legislative agent, received 937
by the person in the person's own name or by any other person for 938
the person's use or benefit during the preceding calendar year, 939
except gifts received by will or by virtue of section 2105.06 of 940
the Revised Code, or received from spouses, parents, grandparents, 941
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 942
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 943
fathers-in-law, mothers-in-law, or any person to whom the person 944
filing the statement stands in loco parentis, or received by way 945
of distribution from any inter vivos or testamentary trust 946
established by a spouse or by an ancestor; 947

(8) Except as otherwise provided in section 102.022 of the 948
Revised Code, identification of the source and amount of every 949

payment of expenses incurred for travel to destinations inside or 950
outside this state that is received by the person in the person's 951
own name or by any other person for the person's use or benefit 952
and that is incurred in connection with the person's official 953
duties, except for expenses for travel to meetings or conventions 954
of a national or state organization to which any state agency, 955
including, but not limited to, any legislative agency or state 956
institution of higher education as defined in section 3345.011 of 957
the Revised Code, pays membership dues, or any political 958
subdivision or any office or agency of a political subdivision 959
pays membership dues; 960

(9) Except as otherwise provided in section 102.022 of the 961
Revised Code, identification of the source of payment of expenses 962
for meals and other food and beverages, other than for meals and 963
other food and beverages provided at a meeting at which the person 964
participated in a panel, seminar, or speaking engagement or at a 965
meeting or convention of a national or state organization to which 966
any state agency, including, but not limited to, any legislative 967
agency or state institution of higher education as defined in 968
section 3345.011 of the Revised Code, pays membership dues, or any 969
political subdivision or any office or agency of a political 970
subdivision pays membership dues, that are incurred in connection 971
with the person's official duties and that exceed one hundred 972
dollars aggregated per calendar year; 973

(10) If the disclosure statement is filed by a public 974
official or employee described in division (B)(2) of section 975
101.73 of the Revised Code or division (B)(2) of section 121.63 of 976
the Revised Code who receives a statement from a legislative 977
agent, executive agency lobbyist, or employer that contains the 978
information described in division (F)(2) of section 101.73 of the 979
Revised Code or division (G)(2) of section 121.63 of the Revised 980
Code, all of the nondisputed information contained in the 981

statement delivered to that public official or employee by the 982
legislative agent, executive agency lobbyist, or employer under 983
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 984
the Revised Code. 985

A person may file a statement required by this section in 986
person or by mail. A person who is a candidate for elective office 987
shall file the statement no later than the thirtieth day before 988
the primary, special, or general election at which the candidacy 989
is to be voted on, whichever election occurs soonest, except that 990
a person who is a write-in candidate shall file the statement no 991
later than the twentieth day before the earliest election at which 992
the person's candidacy is to be voted on. A person who holds 993
elective office shall file the statement on or before the 994
fifteenth day of April of each year unless the person is a 995
candidate for office. A person who is appointed to fill a vacancy 996
for an unexpired term in an elective office shall file the 997
statement within fifteen days after the person qualifies for 998
office. Other persons shall file an annual statement on or before 999
the fifteenth day of April or, if appointed or employed after that 1000
date, within ninety days after appointment or employment. No 1001
person shall be required to file with the appropriate ethics 1002
commission more than one statement or pay more than one filing fee 1003
for any one calendar year. 1004

The appropriate ethics commission, for good cause, may extend 1005
for a reasonable time the deadline for filing a statement under 1006
this section. 1007

A statement filed under this section is subject to public 1008
inspection at locations designated by the appropriate ethics 1009
commission except as otherwise provided in this section. 1010

(B) The Ohio ethics commission, the joint legislative ethics 1011
committee, and the board of commissioners on grievances and 1012
discipline of the supreme court, using the rule-making procedures 1013

of Chapter 119. of the Revised Code, may require any class of 1014
public officials or employees under its jurisdiction and not 1015
specifically excluded by this section whose positions involve a 1016
substantial and material exercise of administrative discretion in 1017
the formulation of public policy, expenditure of public funds, 1018
enforcement of laws and rules of the state or a county or city, or 1019
the execution of other public trusts, to file an annual statement 1020
on or before the fifteenth day of April under division (A) of this 1021
section. The appropriate ethics commission shall send the public 1022
officials or employees written notice of the requirement by the 1023
fifteenth day of February of each year the filing is required 1024
unless the public official or employee is appointed after that 1025
date, in which case the notice shall be sent within thirty days 1026
after appointment, and the filing shall be made not later than 1027
ninety days after appointment. 1028

Except for disclosure statements filed by members of the 1029
board of trustees and the executive director of the southern Ohio 1030
agricultural and community development foundation, disclosure 1031
statements filed under this division with the Ohio ethics 1032
commission by members of boards, commissions, or bureaus of the 1033
state for which no compensation is received other than reasonable 1034
and necessary expenses shall be kept confidential. Disclosure 1035
statements filed with the Ohio ethics commission under division 1036
(A) of this section by business managers, treasurers, and 1037
superintendents of city, local, exempted village, joint 1038
vocational, or cooperative education school districts or 1039
educational service centers shall be kept confidential, except 1040
that any person conducting an audit of any such school district or 1041
educational service center pursuant to section 115.56 or Chapter 1042
117. of the Revised Code may examine the disclosure statement of 1043
any business manager, treasurer, or superintendent of that school 1044
district or educational service center. Disclosure statements 1045
filed with the Ohio ethics commission under division (A) of this 1046

section by the individuals set forth in division (B)(2) of section 1047
187.03 of the Revised Code shall be kept confidential. The Ohio 1048
ethics commission shall examine each disclosure statement required 1049
to be kept confidential to determine whether a potential conflict 1050
of interest exists for the person who filed the disclosure 1051
statement. A potential conflict of interest exists if the private 1052
interests of the person, as indicated by the person's disclosure 1053
statement, might interfere with the public interests the person is 1054
required to serve in the exercise of the person's authority and 1055
duties in the person's office or position of employment. If the 1056
commission determines that a potential conflict of interest 1057
exists, it shall notify the person who filed the disclosure 1058
statement and shall make the portions of the disclosure statement 1059
that indicate a potential conflict of interest subject to public 1060
inspection in the same manner as is provided for other disclosure 1061
statements. Any portion of the disclosure statement that the 1062
commission determines does not indicate a potential conflict of 1063
interest shall be kept confidential by the commission and shall 1064
not be made subject to public inspection, except as is necessary 1065
for the enforcement of Chapters 102. and 2921. of the Revised Code 1066
and except as otherwise provided in this division. 1067

(C) No person shall knowingly fail to file, on or before the 1068
applicable filing deadline established under this section, a 1069
statement that is required by this section. 1070

(D) No person shall knowingly file a false statement that is 1071
required to be filed under this section. 1072

(E)(1) Except as provided in divisions (E)(2) and (3) of this 1073
section, the statement required by division (A) or (B) of this 1074
section shall be accompanied by a filing fee of ~~forty~~ sixty 1075
dollars. 1076

(2) The statement required by division (A) of this section 1077
shall be accompanied by the following filing fee to be paid by the 1078

| | | |
|--|----------------------|------|
| person who is elected or appointed to, or is a candidate for, any | | 1079 |
| of the following offices: | | 1080 |
| For state office, except member of the | | 1081 |
| state board of education | \$95 | 1082 |
| For office of member of general assembly | \$40 | 1083 |
| For county office | \$60 | 1084 |
| For city office | \$35 | 1085 |
| For office of member of the state board | | 1086 |
| of education | \$25 \$35 | 1087 |
| For office of member of the Ohio | | 1088 |
| livestock care standards board | \$..... | 1089 |
| For office of member of a city, local, | | 1090 |
| exempted village, or cooperative | | 1091 |
| education board of | | 1092 |
| education or educational service | | 1093 |
| center governing board | \$30 | 1094 |
| For position of business manager, | | 1095 |
| treasurer, or superintendent of a | | 1096 |
| city, local, exempted village, joint | | 1097 |
| vocational, or cooperative education | | 1098 |
| school district or | | 1099 |
| educational service center | \$30 | 1100 |
| (3) No judge of a court of record or candidate for judge of a | | 1101 |
| court of record, and no referee or magistrate serving a court of | | 1102 |
| record, shall be required to pay the fee required under division | | 1103 |
| (E)(1) or (2) or (F) of this section. | | 1104 |
| (4) For any public official who is appointed to a nonelective | | 1105 |
| office of the state and for any employee who holds a nonelective | | 1106 |
| position in a public agency of the state, the state agency that is | | 1107 |
| the primary employer of the state official or employee shall pay | | 1108 |
| the fee required under division (E)(1) or (F) of this section. | | 1109 |
| (F) If a statement required to be filed under this section is | | 1110 |

not filed by the date on which it is required to be filed, the 1111
appropriate ethics commission shall assess the person required to 1112
file the statement a late filing fee of ten dollars for each day 1113
the statement is not filed, except that the total amount of the 1114
late filing fee shall not exceed two hundred fifty dollars. 1115

(G)(1) The appropriate ethics commission other than the Ohio 1116
ethics commission and the joint legislative ethics committee shall 1117
deposit all fees it receives under divisions (E) and (F) of this 1118
section into the general revenue fund of the state. 1119

(2) The Ohio ethics commission shall deposit all receipts, 1120
including, but not limited to, fees it receives under divisions 1121
(E) and (F) of this section, investigative or other fees, costs, 1122
or other funds it receives as a result of court orders, and all 1123
moneys it receives from settlements under division (G) of section 1124
102.06 of the Revised Code, into the Ohio ethics commission fund, 1125
which is hereby created in the state treasury. All moneys credited 1126
to the fund shall be used solely for expenses related to the 1127
operation and statutory functions of the commission. 1128

(3) The joint legislative ethics committee shall deposit all 1129
receipts it receives from the payment of financial disclosure 1130
statement filing fees under divisions (E) and (F) of this section 1131
into the joint legislative ethics committee investigative fund. 1132

(H) Division (A) of this section does not apply to a person 1133
elected or appointed to the office of precinct, ward, or district 1134
committee member under Chapter 3517. of the Revised Code; a 1135
presidential elector; a delegate to a national convention; village 1136
or township officials and employees; any physician or psychiatrist 1137
who is paid a salary or wage in accordance with schedule C of 1138
section 124.15 or schedule E-2 of section 124.152 of the Revised 1139
Code and whose primary duties do not require the exercise of 1140
administrative discretion; or any member of a board, commission, 1141
or bureau of any county or city who receives less than one 1142

thousand dollars per year for serving in that position. 1143

Sec. 103.51. (A) There is hereby created the legislative task 1144
force on redistricting, reapportionment, and demographic research, 1145
consisting of six members. The president of the senate shall 1146
appoint three members, not more than two of whom shall be members 1147
of the same political party. One member appointed by the president 1148
shall not be a member of the general assembly. The speaker of the 1149
house of representatives shall appoint three members, not more 1150
than two of whom shall be members of the same political party. One 1151
member appointed by the speaker shall not be a member of the 1152
general assembly. 1153

Appointments to the task force shall be made within fifteen 1154
days after the commencement of the first regular session of each 1155
general assembly in the manner prescribed in this division. A 1156
vacancy on the task force shall be filled for the unexpired term 1157
in the same manner as the original appointment. Members of the 1158
task force shall serve on the task force until the appointments 1159
are made in the first regular session of the following general 1160
assembly or, in the case of task force members who also are 1161
general assembly members when appointed, until they are no longer 1162
general assembly members. 1163

The president of the senate shall appoint a member of the 1164
task force, and the speaker of the house of representatives shall 1165
appoint a member of the task force, to serve as ~~co-chairmen~~ 1166
co-chairpersons of the task force. The ~~co-chairmen~~ co-chairpersons 1167
shall be members of different political parties. The ~~co-chairmen~~ 1168
co-chairpersons may enter into any agreements on behalf of the 1169
task force and perform any acts that may be necessary or proper 1170
for the task force to carry out its powers and duties under this 1171
section. 1172

(B) The members of the task force shall serve without 1173

compensation, but shall be reimbursed for their actual and 1174
necessary expenses incurred in the performance of their official 1175
duties. 1176

(C) The task force shall do all of the following: 1177

(1) Provide such assistance to the general assembly and its 1178
committees as requested in order to help the general assembly 1179
fulfill its duty to establish districts for the election of 1180
representatives to congress; 1181

(2) Provide such assistance to the apportionment board as 1182
requested in order to help it fulfill its duty to provide for the 1183
apportionment of this state for members of the general assembly. 1184
As used in this section, "apportionment board" means the persons 1185
designated in Section 1 of Article XI, Ohio Constitution, as being 1186
responsible for that apportionment. 1187

(3) Engage in such research studies and other activities as 1188
the task force considers necessary or appropriate in the 1189
preparation and formulation of a plan for the next apportionment 1190
of the state for members of the general assembly and a plan for 1191
the next establishment of districts for the election of 1192
representatives to congress and in the utilization of census and 1193
other demographic ~~and~~, statistical, and election data for policy 1194
analysis, program development, and program evaluation purposes for 1195
the benefit of the general assembly. 1196

(D) Notwithstanding any provision of law to the contrary, the 1197
task force may do all of the following: 1198

(1) Hire such employees and engage such experts and technical 1199
advisors and fix their compensation, and obtain such services, as 1200
are necessary for the task force to exercise its duties under this 1201
section; 1202

(2) Authorize the providing of such services and the 1203
furnishing of such data by the task force to any state agency or 1204

political subdivision of this state as the task force may specify, 1205
on such terms and conditions as the task force may specify, 1206
including the amount of the payment for providing the services and 1207
furnishing the data; 1208

(3) Conduct meetings and hearings both within and outside 1209
this state and otherwise exercise all of the powers of a standing 1210
or select committee of the general assembly; 1211

(4) Request and receive from any state agency or political 1212
subdivision of this state such assistance and data as will enable 1213
the task force to exercise its powers and duties under this 1214
section. 1215

Sec. 105.41. (A) There is hereby created in the legislative 1216
branch of government the capitol square review and advisory board, 1217
consisting of ~~thirteen~~ twelve members as follows: 1218

(1) Two members of the senate, appointed by the president of 1219
the senate, both of whom shall not be members of the same 1220
political party; 1221

(2) Two members of the house of representatives, appointed by 1222
the speaker of the house of representatives, both of whom shall 1223
not be members of the same political party; 1224

(3) ~~Five~~ Four members appointed by the governor, with the 1225
advice and consent of the senate, not more than three of whom 1226
shall be members of the same political party, one of whom shall be 1227
the chief of staff of the governor's office, one of whom shall 1228
represent the Ohio arts council, one of whom shall represent the 1229
Ohio historical society, ~~one of whom shall represent the Ohio~~ 1230
~~building authority,~~ and one of whom shall represent the public at 1231
large; 1232

(4) One member, who shall be a former president of the 1233
senate, appointed by the current president of the senate. If the 1234

current president of the senate, in the current president's 1235
discretion, decides for any reason not to make the appointment or 1236
if no person is eligible or available to serve, the seat shall 1237
remain vacant. 1238

(5) One member, who shall be a former speaker of the house of 1239
representatives, appointed by the current speaker of the house of 1240
representatives. If the current speaker of the house of 1241
representatives, in the current speaker's discretion, decides for 1242
any reason not to make the appointment or if no person is eligible 1243
or available to serve, the seat shall remain vacant. 1244

(6) The clerk of the senate and the clerk of the house of 1245
representatives. 1246

(B) Terms of office of each appointed member of the board 1247
shall be for three years, except that members of the general 1248
assembly appointed to the board shall be members of the board only 1249
so long as they are members of the general assembly and the chief 1250
of staff of the governor's office shall be a member of the board 1251
only so long as the appointing governor remains in office. Each 1252
member shall hold office from the date of the member's appointment 1253
until the end of the term for which the member was appointed. In 1254
case of a vacancy occurring on the board, the president of the 1255
senate, the speaker of the house of representatives, or the 1256
governor, as the case may be, shall in the same manner prescribed 1257
for the regular appointment to the commission, fill the vacancy by 1258
appointing a member. Any member appointed to fill a vacancy 1259
occurring prior to the expiration of the term for which the 1260
member's predecessor was appointed shall hold office for the 1261
remainder of the term. Any appointed member shall continue in 1262
office subsequent to the expiration date of the member's term 1263
until the member's successor takes office, or until a period of 1264
sixty days has elapsed, whichever occurs first. 1265

(C) The board shall hold meetings in a manner and at times 1266

prescribed by the rules adopted by the board. A majority of the 1267
board constitutes a quorum, and no action shall be taken by the 1268
board unless approved by at least six members or by at least seven 1269
members if a person is appointed under division (A)(4) or (5) of 1270
this section. At its first meeting, the board shall adopt rules 1271
for the conduct of its business and the election of its officers, 1272
and shall organize by selecting a chairperson and other officers 1273
as it considers necessary. Board members shall serve without 1274
compensation but shall be reimbursed for actual and necessary 1275
expenses incurred in the performance of their duties. 1276

(D) The board may do any of the following: 1277

(1) Employ or hire on a consulting basis professional, 1278
technical, and clerical employees as are necessary for the 1279
performance of its duties. All employees of the board are in the 1280
unclassified service and serve at the pleasure of the board. For 1281
purposes of section 4117.01 of the Revised Code, employees of the 1282
board shall be considered employees of the general assembly, 1283
except that employees who are covered by a collective bargaining 1284
agreement on ~~the effective date of this amendment~~ September 29, 1285
2011, shall remain subject to the agreement until the agreement 1286
expires on its terms, and the agreement shall not be extended or 1287
renewed. Upon expiration of the agreement, the employees are 1288
considered employees of the general assembly for purposes of 1289
section 4117.01 of the Revised Code and are in the unclassified 1290
service and serve at the pleasure of the board. 1291

(2) Hold public hearings at times and places as determined by 1292
the board; 1293

(3) Adopt, amend, or rescind rules necessary to accomplish 1294
the duties of the board as set forth in this section; 1295

(4) Sponsor, conduct, and support such social events as the 1296
board may authorize and consider appropriate for the employees of 1297

the board, employees and members of the general assembly, 1298
employees of persons under contract with the board or otherwise 1299
engaged to perform services on the premises of capitol square, or 1300
other persons as the board may consider appropriate. Subject to 1301
the requirements of Chapter 4303. of the Revised Code, the board 1302
may provide beer, wine, and intoxicating liquor, with or without 1303
charge, for those events and may use funds only from the sale of 1304
goods and services fund to purchase the beer, wine, and 1305
intoxicating liquor the board provides; 1306

(5) Purchase a warehouse in which to store items of the 1307
capitol collection trust and, whenever necessary, equipment or 1308
other property of the board. 1309

(E) The board shall do all of the following: 1310

(1) Have sole authority to coordinate and approve any 1311
improvements, additions, and renovations that are made to the 1312
capitol square. The improvements shall include, but not be limited 1313
to, the placement of monuments and sculpture on the capitol 1314
grounds. 1315

(2) Subject to section ~~3353.07~~ 3333.93 of the Revised Code, 1316
operate the capitol square, and have sole authority to regulate 1317
all uses of the capitol square. The uses shall include, but not be 1318
limited to, the casual and recreational use of the capitol square. 1319

(3) Employ, fix the compensation of, and prescribe the duties 1320
of the executive director of the board and other employees the 1321
board considers necessary for the performance of its powers and 1322
duties; 1323

(4) Establish and maintain the capitol collection trust. The 1324
capitol collection trust shall consist of furniture, antiques, and 1325
other items of personal property that the board shall store in 1326
suitable facilities until they are ready to be displayed in the 1327
capitol square. 1328

(5) Perform repair, construction, contracting, purchasing, 1329
maintenance, supervisory, and operating activities the board 1330
determines are necessary for the operation and maintenance of the 1331
capitol square; 1332

(6) Maintain and preserve the capitol square, in accordance 1333
with guidelines issued by the United States secretary of the 1334
interior for application of the secretary's standards for 1335
rehabilitation adopted in 36 C.F.R. part 67; 1336

(7) Plan and develop a center at the capitol building for the 1337
purpose of educating visitors about the history of Ohio, including 1338
its political, economic, and social development and the design and 1339
erection of the capitol building and its grounds. 1340

(F)(1) The board shall lease capital facilities improved or 1341
financed by the Ohio building authority pursuant to Chapter 152. 1342
of the Revised Code for the use of the board, and may enter into 1343
any other agreements with the authority ancillary to improvement, 1344
financing, or leasing of those capital facilities, including, but 1345
not limited to, any agreement required by the applicable bond 1346
proceedings authorized by Chapter 152. of the Revised Code. Any 1347
lease of capital facilities authorized by this section shall be 1348
governed by division (D) of section 152.24 of the Revised Code. 1349

(2) Fees, receipts, and revenues received by the board from 1350
the state underground parking garage constitute available receipts 1351
as defined in section 152.09 of the Revised Code, and may be 1352
pledged to the payment of bond service charges on obligations 1353
issued by the Ohio building authority pursuant to Chapter 152. of 1354
the Revised Code to improve, finance, or purchase capital 1355
facilities useful to the board. The authority may, with the 1356
consent of the board, provide in the bond proceedings for a pledge 1357
of all or a portion of those fees, receipts, and revenues as the 1358
authority determines. The authority may provide in the bond 1359
proceedings or by separate agreement with the board for the 1360

transfer of those fees, receipts, and revenues to the appropriate 1361
bond service fund or bond service reserve fund as required to pay 1362
the bond service charges when due, and any such provision for the 1363
transfer of those fees, receipts, and revenues shall be 1364
controlling notwithstanding any other provision of law pertaining 1365
to those fees, receipts, and revenues. 1366

(3) All moneys received by the treasurer of state on account 1367
of the board and required by the applicable bond proceedings or by 1368
separate agreement with the board to be deposited, transferred, or 1369
credited to the bond service fund or bond service reserve fund 1370
established by the bond proceedings shall be transferred by the 1371
treasurer of state to such fund, whether or not it is in the 1372
custody of the treasurer of state, without necessity for further 1373
appropriation, upon receipt of notice from the Ohio building 1374
authority as prescribed in the bond proceedings. 1375

(G) All fees, receipts, and revenues received by the board 1376
from the state underground parking garage shall be deposited into 1377
the state treasury to the credit of the underground parking garage 1378
operating fund, which is hereby created, to be used for the 1379
purposes specified in division (F) of this section and for the 1380
operation and maintenance of the garage. All investment earnings 1381
of the fund shall be credited to the fund. 1382

(H) All donations received by the board shall be deposited 1383
into the state treasury to the credit of the capitol square 1384
renovation gift fund, which is hereby created. The fund shall be 1385
used by the board as follows: 1386

(1) To provide part or all of the funding related to 1387
construction, goods, or services for the renovation of the capitol 1388
square; 1389

(2) To purchase art, antiques, and artifacts for display at 1390
the capitol square; 1391

(3) To award contracts or make grants to organizations for 1392
educating the public regarding the historical background and 1393
governmental functions of the capitol square. Chapters 125., 127., 1394
and 153. and section 3517.13 of the Revised Code do not apply to 1395
purchases made exclusively from the fund, notwithstanding anything 1396
to the contrary in those chapters or that section. All investment 1397
earnings of the fund shall be credited to the fund. 1398

(I) Except as provided in divisions (G), (H), and (J) of this 1399
section, all fees, receipts, and revenues received by the board 1400
shall be deposited into the state treasury to the credit of the 1401
sale of goods and services fund, which is hereby created. Money 1402
credited to the fund shall be used solely to pay costs of the 1403
board other than those specified in divisions (F) and (G) of this 1404
section. All investment earnings of the fund shall be credited to 1405
the fund. 1406

(J) There is hereby created in the state treasury the capitol 1407
square improvement fund, to be used by the board to pay 1408
construction, renovation, and other costs related to the capitol 1409
square for which money is not otherwise available to the board. 1410
Whenever the board determines that there is a need to incur those 1411
costs and that the unencumbered, unobligated balance to the credit 1412
of the underground parking garage operating fund exceeds the 1413
amount needed for the purposes specified in division (F) of this 1414
section and for the operation and maintenance of the garage, the 1415
board may request the director of budget and management to 1416
transfer from the underground parking garage operating fund to the 1417
capitol square improvement fund the amount needed to pay such 1418
construction, renovation, or other costs. The director then shall 1419
transfer the amount needed from the excess balance of the 1420
underground parking garage operating fund. 1421

(K) As the operation and maintenance of the capitol square 1422
constitute essential government functions of a public purpose, the 1423

board shall not be required to pay taxes or assessments upon the 1424
square, upon any property acquired or used by the board under this 1425
section, or upon any income generated by the operation of the 1426
square. 1427

(L) As used in this section, "capitol square" means the 1428
capitol building, senate building, capitol atrium, capitol 1429
grounds, the state underground parking garage, and the warehouse 1430
owned by the board. 1431

(M) The capitol annex shall be known as the senate building. 1432

Sec. 109.57. (A)(1) The superintendent of the bureau of 1433
criminal identification and investigation shall procure from 1434
wherever procurable and file for record photographs, pictures, 1435
descriptions, fingerprints, measurements, and other information 1436
that may be pertinent of all persons who have been convicted of 1437
committing within this state a felony, any crime constituting a 1438
misdemeanor on the first offense and a felony on subsequent 1439
offenses, or any misdemeanor described in division (A)(1)(a), 1440
(A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised 1441
Code, of all children under eighteen years of age who have been 1442
adjudicated delinquent children for committing within this state 1443
an act that would be a felony or an offense of violence if 1444
committed by an adult or who have been convicted of or pleaded 1445
guilty to committing within this state a felony or an offense of 1446
violence, and of all well-known and habitual criminals. The person 1447
in charge of any county, multicounty, municipal, municipal-county, 1448
or multicounty-municipal jail or workhouse, community-based 1449
correctional facility, halfway house, alternative residential 1450
facility, or state correctional institution and the person in 1451
charge of any state institution having custody of a person 1452
suspected of having committed a felony, any crime constituting a 1453
misdemeanor on the first offense and a felony on subsequent 1454

offenses, or any misdemeanor described in division (A)(1)(a), 1455
(A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised 1456
Code or having custody of a child under eighteen years of age with 1457
respect to whom there is probable cause to believe that the child 1458
may have committed an act that would be a felony or an offense of 1459
violence if committed by an adult shall furnish such material to 1460
the superintendent of the bureau. Fingerprints, photographs, or 1461
other descriptive information of a child who is under eighteen 1462
years of age, has not been arrested or otherwise taken into 1463
custody for committing an act that would be a felony or an offense 1464
of violence who is not in any other category of child specified in 1465
this division, if committed by an adult, has not been adjudicated 1466
a delinquent child for committing an act that would be a felony or 1467
an offense of violence if committed by an adult, has not been 1468
convicted of or pleaded guilty to committing a felony or an 1469
offense of violence, and is not a child with respect to whom there 1470
is probable cause to believe that the child may have committed an 1471
act that would be a felony or an offense of violence if committed 1472
by an adult shall not be procured by the superintendent or 1473
furnished by any person in charge of any county, multicounty, 1474
municipal, municipal-county, or multicounty-municipal jail or 1475
workhouse, community-based correctional facility, halfway house, 1476
alternative residential facility, or state correctional 1477
institution, except as authorized in section 2151.313 of the 1478
Revised Code. 1479

(2) Every clerk of a court of record in this state, other 1480
than the supreme court or a court of appeals, shall send to the 1481
superintendent of the bureau a weekly report containing a summary 1482
of each case involving a felony, involving any crime constituting 1483
a misdemeanor on the first offense and a felony on subsequent 1484
offenses, involving a misdemeanor described in division (A)(1)(a), 1485
(A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised 1486
Code, or involving an adjudication in a case in which a child 1487

under eighteen years of age was alleged to be a delinquent child 1488
for committing an act that would be a felony or an offense of 1489
violence if committed by an adult. The clerk of the court of 1490
common pleas shall include in the report and summary the clerk 1491
sends under this division all information described in divisions 1492
(A)(2)(a) to (f) of this section regarding a case before the court 1493
of appeals that is served by that clerk. The summary shall be 1494
written on the standard forms furnished by the superintendent 1495
pursuant to division (B) of this section and shall include the 1496
following information: 1497

(a) The incident tracking number contained on the standard 1498
forms furnished by the superintendent pursuant to division (B) of 1499
this section; 1500

(b) The style and number of the case; 1501

(c) The date of arrest, offense, summons, or arraignment; 1502

(d) The date that the person was convicted of or pleaded 1503
guilty to the offense, adjudicated a delinquent child for 1504
committing the act that would be a felony or an offense of 1505
violence if committed by an adult, found not guilty of the 1506
offense, or found not to be a delinquent child for committing an 1507
act that would be a felony or an offense of violence if committed 1508
by an adult, the date of an entry dismissing the charge, an entry 1509
declaring a mistrial of the offense in which the person is 1510
discharged, an entry finding that the person or child is not 1511
competent to stand trial, or an entry of a nolle prosequi, or the 1512
date of any other determination that constitutes final resolution 1513
of the case; 1514

(e) A statement of the original charge with the section of 1515
the Revised Code that was alleged to be violated; 1516

(f) If the person or child was convicted, pleaded guilty, or 1517
was adjudicated a delinquent child, the sentence or terms of 1518

probation imposed or any other disposition of the offender or the delinquent child.

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.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a), (A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the

state and its political subdivisions. 1551

(4) The superintendent shall carry out Chapter 2950. of the 1552
Revised Code with respect to the registration of persons who are 1553
convicted of or plead guilty to a sexually oriented offense or a 1554
child-victim oriented offense and with respect to all other duties 1555
imposed on the bureau under that chapter. 1556

(5) The bureau shall perform centralized recordkeeping 1557
functions for criminal history records and services in this state 1558
for purposes of the national crime prevention and privacy compact 1559
set forth in section 109.571 of the Revised Code and is the 1560
criminal history record repository as defined in that section for 1561
purposes of that compact. The superintendent or the 1562
superintendent's designee is the compact officer for purposes of 1563
that compact and shall carry out the responsibilities of the 1564
compact officer specified in that compact. 1565

(B) The superintendent shall prepare and furnish to every 1566
county, multicounty, municipal, municipal-county, or 1567
multicounty-municipal jail or workhouse, community-based 1568
correctional facility, halfway house, alternative residential 1569
facility, or state correctional institution and to every clerk of 1570
a court in this state specified in division (A)(2) of this section 1571
standard forms for reporting the information required under 1572
division (A) of this section. The standard forms that the 1573
superintendent prepares pursuant to this division may be in a 1574
tangible format, in an electronic format, or in both tangible 1575
formats and electronic formats. 1576

(C)(1) The superintendent may operate a center for 1577
electronic, automated, or other data processing for the storage 1578
and retrieval of information, data, and statistics pertaining to 1579
criminals and to children under eighteen years of age who are 1580
adjudicated delinquent children for committing an act that would 1581
be a felony or an offense of violence if committed by an adult, 1582

criminal activity, crime prevention, law enforcement, and criminal 1583
justice, and may establish and operate a statewide communications 1584
network to be known as the Ohio law enforcement gateway to gather 1585
and disseminate information, data, and statistics for the use of 1586
law enforcement agencies and for other uses specified in this 1587
division. The superintendent may gather, store, retrieve, and 1588
disseminate information, data, and statistics that pertain to 1589
children who are under eighteen years of age and that are gathered 1590
pursuant to sections 109.57 to 109.61 of the Revised Code together 1591
with information, data, and statistics that pertain to adults and 1592
that are gathered pursuant to those sections. 1593

(2) The superintendent or the superintendent's designee shall 1594
gather information of the nature described in division (C)(1) of 1595
this section that pertains to the offense and delinquency history 1596
of a person who has been convicted of, pleaded guilty to, or been 1597
adjudicated a delinquent child for committing a sexually oriented 1598
offense or a child-victim oriented offense for inclusion in the 1599
state registry of sex offenders and child-victim offenders 1600
maintained pursuant to division (A)(1) of section 2950.13 of the 1601
Revised Code and in the internet database operated pursuant to 1602
division (A)(13) of that section and for possible inclusion in the 1603
internet database operated pursuant to division (A)(11) of that 1604
section. 1605

(3) In addition to any other authorized use of information, 1606
data, and statistics of the nature described in division (C)(1) of 1607
this section, the superintendent or the superintendent's designee 1608
may provide and exchange the information, data, and statistics 1609
pursuant to the national crime prevention and privacy compact as 1610
described in division (A)(5) of this section. 1611

(4) The attorney general may adopt rules under Chapter 119. 1612
of the Revised Code establishing guidelines for the operation of 1613
and participation in the Ohio law enforcement gateway. The rules 1614

may include criteria for granting and restricting access to 1615
information gathered and disseminated through the Ohio law 1616
enforcement gateway. The attorney general shall permit the state 1617
medical board and board of nursing to access and view, but not 1618
alter, information gathered and disseminated through the Ohio law 1619
enforcement gateway. 1620

The attorney general may appoint a steering committee to 1621
advise the attorney general in the operation of the Ohio law 1622
enforcement gateway that is comprised of persons who are 1623
representatives of the criminal justice agencies in this state 1624
that use the Ohio law enforcement gateway and is chaired by the 1625
superintendent or the superintendent's designee. 1626

(D)(1) The following are not public records under section 1627
149.43 of the Revised Code: 1628

(a) Information and materials furnished to the superintendent 1629
pursuant to division (A) of this section; 1630

(b) Information, data, and statistics gathered or 1631
disseminated through the Ohio law enforcement gateway pursuant to 1632
division (C)(1) of this section; 1633

(c) Information and materials furnished to any board or 1634
person under division (F) or (G) of this section. 1635

(2) The superintendent or the superintendent's designee shall 1636
gather and retain information so furnished under division (A) of 1637
this section that pertains to the offense and delinquency history 1638
of a person who has been convicted of, pleaded guilty to, or been 1639
adjudicated a delinquent child for committing a sexually oriented 1640
offense or a child-victim oriented offense for the purposes 1641
described in division (C)(2) of this section. 1642

(E) The attorney general shall adopt rules, in accordance 1643
with Chapter 119. of the Revised Code, setting forth the procedure 1644
by which a person may receive or release information gathered by 1645

the superintendent pursuant to division (A) of this section. A 1646
reasonable fee may be charged for this service. If a temporary 1647
employment service submits a request for a determination of 1648
whether a person the service plans to refer to an employment 1649
position has been convicted of or pleaded guilty to an offense 1650
listed in division (A)(1), ~~(3)~~, ~~(4)~~, ~~(5)~~, or ~~(6)~~(2) of section 1651
109.572 of the Revised Code or has been convicted of, pleaded 1652
guilty to, or been found eligible for intervention in lieu of 1653
conviction for a disqualifying offense as defined in section 1654
173.394, 3701.881, or 5111.032 of the Revised Code, the request 1655
shall be treated as a single request and only one fee shall be 1656
charged. 1657

(F)(1) As used in division (F)(2) of this section, "head 1658
start agency" means an entity in this state that has been approved 1659
to be an agency for purposes of subchapter II of the "Community 1660
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 1661
as amended. 1662

(2)(a) In addition to or in conjunction with any request that 1663
is required to be made under section 109.572, 2151.86, 3301.32, 1664
3301.541, division (C) of section 3310.58, or section 3319.39, 1665
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, 1666
~~5126.28, 5126.281~~, or 5153.111 of the Revised Code or that is made 1667
under section 3314.41, 3319.392, 3326.25, or 3328.20 of the 1668
Revised Code, the board of education of any school district; the 1669
director of developmental disabilities; any county board of 1670
developmental disabilities; any ~~entity under contract with a~~ 1671
~~county board of developmental disabilities~~ provider or 1672
subcontractor as defined in section 5123.081 of the Revised Code; 1673
the chief administrator of any chartered nonpublic school; the 1674
chief administrator of a registered private provider that is not 1675
also a chartered nonpublic school; the chief administrator of any 1676
home health agency; the chief administrator of or person operating 1677

any child day-care center, type A family day-care home, or type B 1678
family day-care home licensed or certified under Chapter 5104. of 1679
the Revised Code; the administrator of any type C family day-care 1680
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 1681
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 1682
general assembly; the chief administrator of any head start 1683
agency; the executive director of a public children services 1684
agency; a private company described in section 3314.41, 3319.392, 1685
3326.25, or 3328.20 of the Revised Code; or an employer described 1686
in division (J)(2) of section 3327.10 of the Revised Code may 1687
request that the superintendent of the bureau investigate and 1688
determine, with respect to any individual who has applied for 1689
employment in any position after October 2, 1989, or any 1690
individual wishing to apply for employment with a board of 1691
education may request, with regard to the individual, whether the 1692
bureau has any information gathered under division (A) of this 1693
section that pertains to that individual. On receipt of the 1694
request, the superintendent shall determine whether that 1695
information exists and, upon request of the person, board, or 1696
entity requesting information, also shall request from the federal 1697
bureau of investigation any criminal records it has pertaining to 1698
that individual. The superintendent or the superintendent's 1699
designee also may request criminal history records from other 1700
states or the federal government pursuant to the national crime 1701
prevention and privacy compact set forth in section 109.571 of the 1702
Revised Code. Within thirty days of the date that the 1703
superintendent receives a request, the superintendent shall send 1704
to the board, entity, or person a report of any information that 1705
the superintendent determines exists, including information 1706
contained in records that have been sealed under section 2953.32 1707
of the Revised Code, and, within thirty days of its receipt, shall 1708
send the board, entity, or person a report of any information 1709
received from the federal bureau of investigation, other than 1710

information the dissemination of which is prohibited by federal 1711
law. 1712

(b) When a board of education or a registered private 1713
provider is required to receive information under this section as 1714
a prerequisite to employment of an individual pursuant to division 1715
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 1716
may accept a certified copy of records that were issued by the 1717
bureau of criminal identification and investigation and that are 1718
presented by an individual applying for employment with the 1719
district in lieu of requesting that information itself. In such a 1720
case, the board shall accept the certified copy issued by the 1721
bureau in order to make a photocopy of it for that individual's 1722
employment application documents and shall return the certified 1723
copy to the individual. In a case of that nature, a district or 1724
provider only shall accept a certified copy of records of that 1725
nature within one year after the date of their issuance by the 1726
bureau. 1727

(c) Notwithstanding division (F)(2)(a) of this section, in 1728
the case of a request under section 3319.39, 3319.391, or 3327.10 1729
of the Revised Code only for criminal records maintained by the 1730
federal bureau of investigation, the superintendent shall not 1731
determine whether any information gathered under division (A) of 1732
this section exists on the person for whom the request is made. 1733

(3) The state board of education may request, with respect to 1734
any individual who has applied for employment after October 2, 1735
1989, in any position with the state board or the department of 1736
education, any information that a school district board of 1737
education is authorized to request under division (F)(2) of this 1738
section, and the superintendent of the bureau shall proceed as if 1739
the request has been received from a school district board of 1740
education under division (F)(2) of this section. 1741

(4) When the superintendent of the bureau receives a request 1742

for information under section 3319.291 of the Revised Code, the 1743
superintendent shall proceed as if the request has been received 1744
from a school district board of education and shall comply with 1745
divisions (F)(2)(a) and (c) of this section. 1746

(5) When a recipient of a classroom reading improvement grant 1747
paid under section 3301.86 of the Revised Code requests, with 1748
respect to any individual who applies to participate in providing 1749
any program or service funded in whole or in part by the grant, 1750
the information that a school district board of education is 1751
authorized to request under division (F)(2)(a) of this section, 1752
the superintendent of the bureau shall proceed as if the request 1753
has been received from a school district board of education under 1754
division (F)(2)(a) of this section. 1755

(G) In addition to or in conjunction with any request that is 1756
required to be made under section 3701.881, 3712.09, 3721.121, or 1757
5119.693, ~~or 5119.85~~ of the Revised Code with respect to an 1758
individual who has applied for employment in a position that 1759
involves providing direct care to an older adult or adult 1760
resident, the chief administrator of a home health agency, hospice 1761
care program, home licensed under Chapter 3721. of the Revised 1762
Code, adult day-care program operated pursuant to rules adopted 1763
under section 3721.04 of the Revised Code, or adult foster home, 1764
~~or adult care facility~~ may request that the superintendent of the 1765
bureau investigate and determine, with respect to any individual 1766
who has applied after January 27, 1997, for employment in a 1767
position that does not involve providing direct care to an older 1768
adult or adult resident, whether the bureau has any information 1769
gathered under division (A) of this section that pertains to that 1770
individual. 1771

In addition to or in conjunction with any request that is 1772
required to be made under section 173.27 of the Revised Code with 1773
respect to an individual who has applied for employment in a 1774

position that involves providing ombudsperson services to 1775
residents of long-term care facilities or recipients of 1776
community-based long-term care services, the state long-term care 1777
ombudsperson, ombudsperson's designee, or director of health may 1778
request that the superintendent investigate and determine, with 1779
respect to any individual who has applied for employment in a 1780
position that does not involve providing such ombudsperson 1781
services, whether the bureau has any information gathered under 1782
division (A) of this section that pertains to that applicant. 1783

In addition to or in conjunction with any request that is 1784
required to be made under section 173.394 of the Revised Code with 1785
respect to an individual who has applied for employment in a 1786
position that involves providing direct care to an individual, the 1787
chief administrator of a community-based long-term care agency may 1788
request that the superintendent investigate and determine, with 1789
respect to any individual who has applied for employment in a 1790
position that does not involve providing direct care, whether the 1791
bureau has any information gathered under division (A) of this 1792
section that pertains to that applicant. 1793

On receipt of a request under this division, the 1794
superintendent shall determine whether that information exists 1795
and, on request of the individual requesting information, shall 1796
also request from the federal bureau of investigation any criminal 1797
records it has pertaining to the applicant. The superintendent or 1798
the superintendent's designee also may request criminal history 1799
records from other states or the federal government pursuant to 1800
the national crime prevention and privacy compact set forth in 1801
section 109.571 of the Revised Code. Within thirty days of the 1802
date a request is received, the superintendent shall send to the 1803
requester a report of any information determined to exist, 1804
including information contained in records that have been sealed 1805
under section 2953.32 of the Revised Code, and, within thirty days 1806

of its receipt, shall send the requester a report of any 1807
information received from the federal bureau of investigation, 1808
other than information the dissemination of which is prohibited by 1809
federal law. 1810

(H) Information obtained by a government entity or person 1811
under this section is confidential and shall not be released or 1812
disseminated. 1813

(I) The superintendent may charge a reasonable fee for 1814
providing information or criminal records under division (F)(2) or 1815
(G) of this section. 1816

(J) As used in this section: 1817

(1) "Sexually oriented offense" and "child-victim oriented 1818
offense" have the same meanings as in section 2950.01 of the 1819
Revised Code. 1820

(2) "Registered private provider" means a nonpublic school or 1821
entity registered with the superintendent of public instruction 1822
under section 3310.41 of the Revised Code to participate in the 1823
autism scholarship program or section 3310.58 of the Revised Code 1824
to participate in the Jon Peterson special needs scholarship 1825
program. 1826

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 1827
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 1828
a completed form prescribed pursuant to division (C)(1) of this 1829
section, and a set of fingerprint impressions obtained in the 1830
manner described in division (C)(2) of this section, the 1831
superintendent of the bureau of criminal identification and 1832
investigation shall conduct a criminal records check in the manner 1833
described in division (B) of this section to determine whether any 1834
information exists that indicates that the person who is the 1835
subject of the request previously has been convicted of or pleaded 1836

guilty to any of the following: 1837

(a) A violation of section 2903.01, 2903.02, 2903.03, 1838
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1839
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1840
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1841
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 1842
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 1843
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1844
2925.06, or 3716.11 of the Revised Code, felonious sexual 1845
penetration in violation of former section 2907.12 of the Revised 1846
Code, a violation of section 2905.04 of the Revised Code as it 1847
existed prior to July 1, 1996, a violation of section 2919.23 of 1848
the Revised Code that would have been a violation of section 1849
2905.04 of the Revised Code as it existed prior to July 1, 1996, 1850
had the violation been committed prior to that date, or a 1851
violation of section 2925.11 of the Revised Code that is not a 1852
minor drug possession offense; 1853

(b) A violation of an existing or former law of this state, 1854
any other state, or the United States that is substantially 1855
equivalent to any of the offenses listed in division (A)(1)(a) of 1856
this section. 1857

~~(2) On receipt of a request pursuant to section 5123.081 of 1858
the Revised Code with respect to an applicant for employment in 1859
any position with the department of developmental disabilities, 1860
pursuant to section 5126.28 of the Revised Code with respect to an 1861
applicant for employment in any position with a county board of 1862
developmental disabilities, or pursuant to section 5126.281 of the 1863
Revised Code with respect to an applicant for employment in a 1864
direct services position with an entity contracting with a county 1865
board for employment, a completed form prescribed pursuant to 1866
division (C)(1) of this section, and a set of fingerprint 1867
impressions obtained in the manner described in division (C)(2) of 1868~~

~~this section, the superintendent of the bureau of criminal 1869
identification and investigation shall conduct a criminal records 1870
check. The superintendent shall conduct the criminal records check 1871
in the manner described in division (B) of this section to 1872
determine whether any information exists that indicates that the 1873
person who is the subject of the request has been convicted of or 1874
pleaded guilty to any of the following: 1875~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 1876
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1877
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 1878
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 1879
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1880
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 1881
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 1882
2925.03, or 3716.11 of the Revised Code; 1883~~

~~(b) An existing or former municipal ordinance or law of this 1884
state, any other state, or the United States that is substantially 1885
equivalent to any of the offenses listed in division (A)(2)(a) of 1886
this section. 1887~~

~~(3) On receipt of a request pursuant to section 173.27, 1888
173.394, 3712.09, 3721.121, or 5119.693, or 5119.85 of the Revised 1889
Code, a completed form prescribed pursuant to division (C)(1) of 1890
this section, and a set of fingerprint impressions obtained in the 1891
manner described in division (C)(2) of this section, the 1892
superintendent of the bureau of criminal identification and 1893
investigation shall conduct a criminal records check with respect 1894
to any person who has applied for employment in a position for 1895
which a criminal records check is required by those sections. The 1896
superintendent shall conduct the criminal records check in the 1897
manner described in division (B) of this section to determine 1898
whether any information exists that indicates that the person who 1899
is the subject of the request previously has been convicted of or 1900~~

pleaded guilty to any of the following: 1901

(a) A violation of section 2903.01, 2903.02, 2903.03, 1902
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1903
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1904
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1905
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1906
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1907
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1908
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1909
2925.22, 2925.23, or 3716.11 of the Revised Code; 1910

(b) An existing or former law of this state, any other state, 1911
or the United States that is substantially equivalent to any of 1912
the offenses listed in division (A)~~(3)~~(2)(a) of this section. 1913

~~(4) On receipt of a request pursuant to section 3701.881 of 1914
the Revised Code with respect to an applicant for employment with 1915
a home health agency as a person responsible for the care, 1916
custody, or control of a child, a completed form prescribed 1917
pursuant to division (C)(1) of this section, and a set of 1918
fingerprint impressions obtained in the manner described in 1919
division (C)(2) of this section, the superintendent of the bureau 1920
of criminal identification and investigation shall conduct a 1921
criminal records check. The superintendent shall conduct the 1922
criminal records check in the manner described in division (B) of 1923
this section to determine whether any information exists that 1924
indicates that the person who is the subject of the request 1925
previously has been convicted of or pleaded guilty to any of the 1926
following: 1927~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 1928
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1929
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1930
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1931
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1932~~

~~2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1933
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1934
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 1935
violation of section 2925.11 of the Revised Code that is not a 1936
minor drug possession offense; 1937~~

~~(b) An existing or former law of this state, any other state, 1938
or the United States that is substantially equivalent to any of 1939
the offenses listed in division (A)(4)(a) of this section. 1940~~

~~(5)(3) On receipt of a request pursuant to section 173.27, 1941
173.394, 3701.881, 5111.032, 5111.033, ~~or~~ 5111.034, 5123.081, or 1942
5123.169 of the Revised Code, a completed form prescribed pursuant 1943
to division (C)(1) of this section, and a set of fingerprint 1944
impressions obtained in the manner described in division (C)(2) of 1945
this section, the superintendent of the bureau of criminal 1946
identification and investigation shall conduct a criminal records 1947
check of the person for whom the request is made. The 1948
superintendent shall conduct the criminal records check in the 1949
manner described in division (B) of this section to determine 1950
whether any information exists that indicates that the person who 1951
is the subject of the request previously has been convicted of, 1952
has pleaded guilty to, or has been found eligible for intervention 1953
in lieu of conviction for ~~any of the following, regardless of the~~ 1954
~~date of the conviction, the date of entry of the guilty plea, or~~ 1955
~~the date the person was found eligible for intervention in lieu of~~ 1956
~~conviction;~~ 1957~~

~~(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 1958
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 1959
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 1960
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 1961
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 1962
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 1963
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 1964~~

~~2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 1965~~
~~2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 1966~~
~~2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 1967~~
~~2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 1968~~
~~2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 1969~~
~~2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 1970~~
~~2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 1971~~
~~2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 1972~~
~~2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 1973~~
~~penetration in violation of former section 2907.12 of the Revised 1974~~
~~Code, a violation of section 2905.04 of the Revised Code as it 1975~~
~~existed prior to July 1, 1996, a violation of section 2919.23 of 1976~~
~~the Revised Code that would have been a violation of section 1977~~
~~2905.04 of the Revised Code as it existed prior to July 1, 1996, 1978~~
~~had the violation been committed prior to that date; 1979~~

~~(b) A violation of an existing or former municipal ordinance 1980~~
~~or law of this state, any other state, or the United States that 1981~~
~~is substantially equivalent to any of the offenses listed in 1982~~
~~division (A)(5)(a) of this section a disqualifying offense as 1983~~
~~defined in the section of the Revised Code under which the request 1984~~
~~is made. 1985~~

~~(6) On receipt of a request pursuant to section 3701.881 of 1986~~
~~the Revised Code with respect to an applicant for employment with 1987~~
~~a home health agency in a position that involves providing direct 1988~~
~~care to an older adult, a completed form prescribed pursuant to 1989~~
~~division (C)(1) of this section, and a set of fingerprint 1990~~
~~impressions obtained in the manner described in division (C)(2) of 1991~~
~~this section, the superintendent of the bureau of criminal 1992~~
~~identification and investigation shall conduct a criminal records 1993~~
~~check. The superintendent shall conduct the criminal records check 1994~~
~~in the manner described in division (B) of this section to 1995~~
~~determine whether any information exists that indicates that the 1996~~

~~person who is the subject of the request previously has been~~ 1997
~~convicted of or pleaded guilty to any of the following:~~ 1998

~~(a) A violation of section 2903.01, 2903.02, 2903.03,~~ 1999
~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,~~ 2000
~~2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05,~~ 2001
~~2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31,~~ 2002
~~2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11,~~ 2003
~~2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21,~~ 2004
~~2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36,~~ 2005
~~2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13,~~ 2006
~~2925.22, 2925.23, or 3716.11 of the Revised Code;~~ 2007

~~(b) An existing or former law of this state, any other state,~~ 2008
~~or the United States that is substantially equivalent to any of~~ 2009
~~the offenses listed in division (A)(6)(a) of this section.~~ 2010

~~(7)(4)~~ (4) When conducting a criminal records check upon a 2011
request pursuant to section 3319.39 of the Revised Code for an 2012
applicant who is a teacher, in addition to the determination made 2013
under division (A)(1) of this section, the superintendent shall 2014
determine whether any information exists that indicates that the 2015
person who is the subject of the request previously has been 2016
convicted of or pleaded guilty to any offense specified in section 2017
3319.31 of the Revised Code. 2018

~~(8)(5)~~ (5) On receipt of a request pursuant to section 2151.86 of 2019
the Revised Code, a completed form prescribed pursuant to division 2020
(C)(1) of this section, and a set of fingerprint impressions 2021
obtained in the manner described in division (C)(2) of this 2022
section, the superintendent of the bureau of criminal 2023
identification and investigation shall conduct a criminal records 2024
check in the manner described in division (B) of this section to 2025
determine whether any information exists that indicates that the 2026
person who is the subject of the request previously has been 2027
convicted of or pleaded guilty to any of the following: 2028

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2029
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2030
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2031
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2032
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2033
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2034
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2035
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2036
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 2037
of the Revised Code, a violation of section 2905.04 of the Revised 2038
Code as it existed prior to July 1, 1996, a violation of section 2039
2919.23 of the Revised Code that would have been a violation of 2040
section 2905.04 of the Revised Code as it existed prior to July 1, 2041
1996, had the violation been committed prior to that date, a 2042
violation of section 2925.11 of the Revised Code that is not a 2043
minor drug possession offense, two or more OVI or OVUAC violations 2044
committed within the three years immediately preceding the 2045
submission of the application or petition that is the basis of the 2046
request, or felonious sexual penetration in violation of former 2047
section 2907.12 of the Revised Code; 2048

(b) A violation of an existing or former law of this state, 2049
any other state, or the United States that is substantially 2050
equivalent to any of the offenses listed in division (A)~~(8)~~(5)(a) 2051
of this section. 2052

~~(9)~~(6) Upon receipt of a request pursuant to section 5104.012 2053
or 5104.013 of the Revised Code, a completed form prescribed 2054
pursuant to division (C)(1) of this section, and a set of 2055
fingerprint impressions obtained in the manner described in 2056
division (C)(2) of this section, the superintendent of the bureau 2057
of criminal identification and investigation shall conduct a 2058
criminal records check in the manner described in division (B) of 2059
this section to determine whether any information exists that 2060

indicates that the person who is the subject of the request has 2061
been convicted of or pleaded guilty to any of the following: 2062

(a) A violation of section 2903.01, 2903.02, 2903.03, 2063
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2064
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2065
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2066
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2067
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2068
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2069
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2070
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 2071
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 2072
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 2073
3716.11 of the Revised Code, felonious sexual penetration in 2074
violation of former section 2907.12 of the Revised Code, a 2075
violation of section 2905.04 of the Revised Code as it existed 2076
prior to July 1, 1996, a violation of section 2919.23 of the 2077
Revised Code that would have been a violation of section 2905.04 2078
of the Revised Code as it existed prior to July 1, 1996, had the 2079
violation been committed prior to that date, a violation of 2080
section 2925.11 of the Revised Code that is not a minor drug 2081
possession offense, a violation of section 2923.02 or 2923.03 of 2082
the Revised Code that relates to a crime specified in this 2083
division, or a second violation of section 4511.19 of the Revised 2084
Code within five years of the date of application for licensure or 2085
certification. 2086

(b) A violation of an existing or former law of this state, 2087
any other state, or the United States that is substantially 2088
equivalent to any of the offenses or violations described in 2089
division (A)~~(9)~~(6)(a) of this section. 2090

~~(10)~~(7) Upon receipt of a request pursuant to section 2091
5153.111 of the Revised Code, a completed form prescribed pursuant 2092

to division (C)(1) of this section, and a set of fingerprint 2093
impressions obtained in the manner described in division (C)(2) of 2094
this section, the superintendent of the bureau of criminal 2095
identification and investigation shall conduct a criminal records 2096
check in the manner described in division (B) of this section to 2097
determine whether any information exists that indicates that the 2098
person who is the subject of the request previously has been 2099
convicted of or pleaded guilty to any of the following: 2100

(a) A violation of section 2903.01, 2903.02, 2903.03, 2101
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2102
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2103
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2104
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2105
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2106
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2107
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 2108
felonious sexual penetration in violation of former section 2109
2907.12 of the Revised Code, a violation of section 2905.04 of the 2110
Revised Code as it existed prior to July 1, 1996, a violation of 2111
section 2919.23 of the Revised Code that would have been a 2112
violation of section 2905.04 of the Revised Code as it existed 2113
prior to July 1, 1996, had the violation been committed prior to 2114
that date, or a violation of section 2925.11 of the Revised Code 2115
that is not a minor drug possession offense; 2116

(b) A violation of an existing or former law of this state, 2117
any other state, or the United States that is substantially 2118
equivalent to any of the offenses listed in division (A)~~(10)~~(7)(a) 2119
of this section. 2120

~~(11)~~(8) On receipt of a request for a criminal records check 2121
from an individual pursuant to section 4749.03 or 4749.06 of the 2122
Revised Code, accompanied by a completed copy of the form 2123
prescribed in division (C)(1) of this section and a set of 2124

fingerprint impressions obtained in a manner described in division 2125
(C)(2) of this section, the superintendent of the bureau of 2126
criminal identification and investigation shall conduct a criminal 2127
records check in the manner described in division (B) of this 2128
section to determine whether any information exists indicating 2129
that the person who is the subject of the request has been 2130
convicted of or pleaded guilty to a felony in this state or in any 2131
other state. If the individual indicates that a firearm will be 2132
carried in the course of business, the superintendent shall 2133
require information from the federal bureau of investigation as 2134
described in division (B)(2) of this section. The superintendent 2135
shall report the findings of the criminal records check and any 2136
information the federal bureau of investigation provides to the 2137
director of public safety. 2138

~~(12)~~(9) On receipt of a request pursuant to section 1321.37, 2139
1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised 2140
Code, a completed form prescribed pursuant to division (C)(1) of 2141
this section, and a set of fingerprint impressions obtained in the 2142
manner described in division (C)(2) of this section, the 2143
superintendent of the bureau of criminal identification and 2144
investigation shall conduct a criminal records check with respect 2145
to any person who has applied for a license, permit, or 2146
certification from the department of commerce or a division in the 2147
department. The superintendent shall conduct the criminal records 2148
check in the manner described in division (B) of this section to 2149
determine whether any information exists that indicates that the 2150
person who is the subject of the request previously has been 2151
convicted of or pleaded guilty to any of the following: a 2152
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 2153
2925.03 of the Revised Code; any other criminal offense involving 2154
theft, receiving stolen property, embezzlement, forgery, fraud, 2155
passing bad checks, money laundering, or drug trafficking, or any 2156
criminal offense involving money or securities, as set forth in 2157

Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 2158
the Revised Code; or any existing or former law of this state, any 2159
other state, or the United States that is substantially equivalent 2160
to those offenses. 2161

~~(13)~~(10) On receipt of a request for a criminal records check 2162
from the treasurer of state under section 113.041 of the Revised 2163
Code or from an individual under section 4701.08, 4715.101, 2164
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 2165
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 2166
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 2167
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 2168
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 2169
a completed form prescribed under division (C)(1) of this section 2170
and a set of fingerprint impressions obtained in the manner 2171
described in division (C)(2) of this section, the superintendent 2172
of the bureau of criminal identification and investigation shall 2173
conduct a criminal records check in the manner described in 2174
division (B) of this section to determine whether any information 2175
exists that indicates that the person who is the subject of the 2176
request has been convicted of or pleaded guilty to any criminal 2177
offense in this state or any other state. The superintendent shall 2178
send the results of a check requested under section 113.041 of the 2179
Revised Code to the treasurer of state and shall send the results 2180
of a check requested under any of the other listed sections to the 2181
licensing board specified by the individual in the request. 2182

~~(14)~~(11) On receipt of a request pursuant to section 1121.23, 2183
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 2184
Code, a completed form prescribed pursuant to division (C)(1) of 2185
this section, and a set of fingerprint impressions obtained in the 2186
manner described in division (C)(2) of this section, the 2187
superintendent of the bureau of criminal identification and 2188
investigation shall conduct a criminal records check in the manner 2189

described in division (B) of this section to determine whether any 2190
information exists that indicates that the person who is the 2191
subject of the request previously has been convicted of or pleaded 2192
guilty to any criminal offense under any existing or former law of 2193
this state, any other state, or the United States. 2194

~~(15)~~(12) On receipt of a request for a criminal records check 2195
from an appointing or licensing authority under section 3772.07 of 2196
the Revised Code, a completed form prescribed under division 2197
(C)(1) of this section, and a set of fingerprint impressions 2198
obtained in the manner prescribed in division (C)(2) of this 2199
section, the superintendent of the bureau of criminal 2200
identification and investigation shall conduct a criminal records 2201
check in the manner described in division (B) of this section to 2202
determine whether any information exists that indicates that the 2203
person who is the subject of the request previously has been 2204
convicted of or pleaded guilty or no contest to any offense under 2205
any existing or former law of this state, any other state, or the 2206
United States that is a disqualifying offense as defined in 2207
section 3772.07 of the Revised Code or substantially equivalent to 2208
such an offense. 2209

~~(16)~~(13) Not later than thirty days after the date the 2210
superintendent receives a request of a type described in division 2211
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), ~~(10)~~, (11), (12), 2212
~~(14)~~, or ~~(15)~~(13) of this section, the completed form, and the 2213
fingerprint impressions, the superintendent shall send the results 2214
of the criminal records check to the person, board, or entity that 2215
made the request ~~any information, other than. The superintendent~~ 2216
shall exclude from the results any information the dissemination 2217
of which is prohibited by federal law, ~~the superintendent~~ 2218
~~determines exists with respect to the person who is the subject of~~ 2219
~~the request that indicates that the person previously has been~~ 2220
~~convicted of or pleaded guilty to any offense listed or described~~ 2221

~~in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (14), or (15) of this section, as appropriate. The superintendent shall send the person, board, or entity that made the request a copy of the list of offenses specified in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (14), or (15) of this section, as appropriate for which the criminal records check was conducted. If the request was made under section 3701.881 of the Revised Code with regard to an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult, the superintendent shall provide a list of the offenses specified in divisions (A)(4) and (6) of this section.~~

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

(B) The superintendent shall conduct any criminal records check ~~requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013,~~

~~5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081,~~ 2254
~~5126.28, 5126.281, or 5153.111 of the Revised Code to be conducted~~ 2255
under this section as follows: 2256

(1) The superintendent shall review or cause to be reviewed 2257
any relevant information gathered and compiled by the bureau under 2258
division (A) of section 109.57 of the Revised Code that relates to 2259
the person who is the subject of the ~~request~~ criminal records 2260
check, including, if the criminal records check was requested 2261
under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 2262
1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 2263
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 2264
3712.09, 3721.121, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 2265
5104.013, 5111.032, 5111.033, 5111.034, 5119.693, ~~5119.85,~~ 2266
~~5123.081, 5126.28, 5126.281,~~ 5123.169, or 5153.111 of the Revised 2267
Code, any relevant information contained in records that have been 2268
sealed under section 2953.32 of the Revised Code; 2269

(2) If the request received by the superintendent asks for 2270
information from the federal bureau of investigation, the 2271
superintendent shall request from the federal bureau of 2272
investigation any information it has with respect to the person 2273
who is the subject of the ~~request~~ criminal records check, 2274
including fingerprint-based checks of national crime information 2275
databases as described in 42 U.S.C. 671 if the request is made 2276
pursuant to section 2151.86, 5104.012, or 5104.013 of the Revised 2277
Code or if any other Revised Code section requires 2278
fingerprint-based checks of that nature, and shall review or cause 2279
to be reviewed any information the superintendent receives from 2280
that bureau. If a request under section 3319.39 of the Revised 2281
Code asks only for information from the federal bureau of 2282
investigation, the superintendent shall not conduct the review 2283
prescribed by division (B)(1) of this section. 2284

(3) The superintendent or the superintendent's designee may 2285

request criminal history records from other states or the federal 2286
government pursuant to the national crime prevention and privacy 2287
compact set forth in section 109.571 of the Revised Code. 2288

(C)(1) The superintendent shall prescribe a form to obtain 2289
the information necessary to conduct a criminal records check from 2290
any person for whom a criminal records check is ~~requested under~~ 2291
~~section 113.041 of the Revised Code or required by section 121.08,~~ 2292
~~173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53,~~ 2293
~~1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32,~~ 2294
~~3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08,~~ 2295
~~4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101,~~ 2296
~~4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281,~~ 2297
~~4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10,~~ 2298
~~4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06,~~ 2299
~~4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012,~~ 2300
~~5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85,~~ 2301
~~5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code to be~~ 2302
conducted under this section. The form that the superintendent 2303
prescribes pursuant to this division may be in a tangible format, 2304
in an electronic format, or in both tangible and electronic 2305
formats. 2306

(2) The superintendent shall prescribe standard impression 2307
sheets to obtain the fingerprint impressions of any person for 2308
whom a criminal records check is ~~requested under section 113.041~~ 2309
~~of the Revised Code or required by section 121.08, 173.27,~~ 2310
~~173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531,~~ 2311
~~1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541,~~ 2312
~~3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08, 4715.101,~~ 2313
~~4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14,~~ 2314
~~4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281,~~ 2315
~~4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10,~~ 2316
~~4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06,~~ 2317

~~4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012,~~ 2318
~~5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85,~~ 2319
~~5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code to be~~ 2320
~~conducted under this section.~~ Any person for whom a records check 2321
~~is requested under or required by any of those sections to be~~ 2322
~~conducted under this section~~ shall obtain the fingerprint 2323
impressions at a county sheriff's office, municipal police 2324
department, or any other entity with the ability to make 2325
fingerprint impressions on the standard impression sheets 2326
prescribed by the superintendent. The office, department, or 2327
entity may charge the person a reasonable fee for making the 2328
impressions. The standard impression sheets the superintendent 2329
prescribes pursuant to this division may be in a tangible format, 2330
in an electronic format, or in both tangible and electronic 2331
formats. 2332

(3) Subject to division (D) of this section, the 2333
superintendent shall prescribe and charge a reasonable fee for 2334
providing a criminal records check ~~requested under section~~ 2335
~~113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05,~~ 2336
~~1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26,~~ 2337
~~2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121,~~ 2338
~~3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501,~~ 2339
~~4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171,~~ 2340
~~4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202,~~ 2341
~~4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061,~~ 2342
~~4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091,~~ 2343
~~5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693,~~ 2344
~~5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised~~ 2345
~~Code under this section.~~ The person ~~making a~~ requesting the 2346
criminal records ~~request under any of those sections~~ check shall 2347
pay the fee prescribed pursuant to this division. ~~A person making~~ 2348
~~a request under section 3701.881 of the Revised Code for a~~ 2349
~~criminal records check for an applicant who may be both~~ 2350

~~responsible for the care, custody, or control of a child and~~ 2351
~~involved in providing direct care to an older adult shall pay one~~ 2352
~~fee for the request.~~ In the case of a request under section 2353
1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, or 5111.032 2354
of the Revised Code, the fee shall be paid in the manner specified 2355
in that section. 2356

(4) The superintendent of the bureau of criminal 2357
identification and investigation may prescribe methods of 2358
forwarding fingerprint impressions and information necessary to 2359
conduct a criminal records check, which methods shall include, but 2360
not be limited to, an electronic method. 2361

(D) ~~A determination whether any information exists that~~ 2362
~~indicates that a person previously has been convicted of or~~ 2363
~~pleaded guilty to any offense listed or described in division~~ 2364
~~(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or~~ 2365
~~(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b),~~ 2366
~~(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15)~~ 2367
~~of this section, or that indicates that a person previously has~~ 2368
~~been convicted of or pleaded guilty to any criminal offense in~~ 2369
~~this state or any other state regarding a criminal records check~~ 2370
~~of a type described in division (A)(13) of this section, and that~~ 2371
~~is made by the superintendent with respect to information~~ 2372
~~considered in The results of a criminal records check in~~ 2373
~~accordance with conducted under this section is, other than a~~ 2374
~~criminal records check specified in division (A)(8) of this~~ 2375
~~section, are valid for the person who is the subject of the~~ 2376
~~criminal records check for a period of one year from the date upon~~ 2377
~~which the superintendent ~~makes the determination~~ completes the~~ 2378
~~criminal records check. ~~During the~~ If during that period in which~~ 2379
~~the determination in regard to a person is valid, if the~~ 2380
~~superintendent receives another request under this section is made~~ 2381
for a criminal records check to be conducted under this section 2382

for that person, the superintendent shall provide the ~~information~~ 2383
~~that is the basis for the superintendent's initial determination~~ 2384
results from the previous criminal records check of the person at 2385
a lower fee than the fee prescribed for the initial criminal 2386
records check. 2387

(E) When the superintendent receives a request for 2388
information from a registered private provider, the superintendent 2389
shall proceed as if the request was received from a school 2390
district board of education under section 3319.39 of the Revised 2391
Code. The superintendent shall apply division (A)~~(7)~~(4) of this 2392
section to any such request for an applicant who is a teacher. 2393

(F) As used in this section: 2394

(1) "Criminal records check" means any criminal records check 2395
conducted by the superintendent of the bureau of criminal 2396
identification and investigation in accordance with division (B) 2397
of this section. 2398

(2) "Minor drug possession offense" has the same meaning as 2399
in section 2925.01 of the Revised Code. 2400

~~(3) "Older adult" means a person age sixty or older.~~ 2401

~~(4)~~ "OVI or OVUAC violation" means a violation of section 2402
4511.19 of the Revised Code or a violation of an existing or 2403
former law of this state, any other state, or the United States 2404
that is substantially equivalent to section 4511.19 of the Revised 2405
Code. 2406

~~(5)~~(4) "Registered private provider" means a nonpublic school 2407
or entity registered with the superintendent of public instruction 2408
under section 3310.41 of the Revised Code to participate in the 2409
autism scholarship program or section 3310.58 of the Revised Code 2410
to participate in the Jon Peterson special needs scholarship 2411
program. 2412

| | |
|---|------|
| Sec. 121.04. Offices are created within the several | 2413 |
| departments as follows: | 2414 |
| In the department of commerce: | 2415 |
| Commissioner of securities; | 2416 |
| Superintendent of real estate and professional | 2417 |
| licensing; | |
| Superintendent of financial institutions; | 2418 |
| State fire marshal; | 2419 |
| Superintendent of labor <u>industrial compliance</u> ; | 2420 |
| Superintendent of liquor control; | 2421 |
| Superintendent of unclaimed funds. | 2422 |
| In the department of administrative services: | 2423 |
| State architect and engineer; | 2424 |
| Equal employment opportunity coordinator. | 2425 |
| In the department of agriculture: | 2426 |
| Chiefs of divisions as follows: | 2427 |
| Administration; | 2428 |
| Animal health; | 2429 |
| Livestock environmental permitting; | 2430 |
| Dairy; | 2431 |
| Food safety; | 2432 |
| Plant health; | 2433 |
| Markets; | 2434 |
| Meat inspection; | 2435 |
| Consumer protection laboratory; | 2436 |
| Amusement ride safety; | 2437 |
| Enforcement; | 2438 |
| Weights and measures. | 2439 |
| In the department of natural resources: | 2440 |
| Chiefs of divisions as follows: | 2441 |

| | |
|---|------|
| Mineral resources management; | 2442 |
| Oil and gas resources management; | 2443 |
| Forestry; | 2444 |
| Natural areas and preserves; | 2445 |
| Wildlife; | 2446 |
| Geological survey; | 2447 |
| Parks and recreation; | 2448 |
| Watercraft; | 2449 |
| Recycling and litter prevention; | 2450 |
| Soil and water resources; | 2451 |
| Engineering. | 2452 |

| | |
|--|------|
| In the department of insurance: | 2453 |
| Deputy superintendent of insurance; | 2454 |
| Assistant superintendent of insurance, technical; | 2455 |
| Assistant superintendent of insurance, administrative; | 2456 |
| Assistant superintendent of insurance, research. | 2457 |

Sec. 121.08. (A) There is hereby created in the department of 2458
commerce the position of deputy director of administration. This 2459
officer shall be appointed by the director of commerce, serve 2460
under the director's direction, supervision, and control, perform 2461
the duties the director prescribes, and hold office during the 2462
director's pleasure. The director of commerce may designate an 2463
assistant director of commerce to serve as the deputy director of 2464
administration. The deputy director of administration shall 2465
perform the duties prescribed by the director of commerce in 2466
supervising the activities of the division of administration of 2467
the department of commerce. 2468

(B) Except as provided in section 121.07 of the Revised Code, 2469
the department of commerce shall have all powers and perform all 2470
duties vested in the deputy director of administration, the state 2471
fire marshal, the superintendent of financial institutions, the 2472
superintendent of real estate and professional licensing, the 2473

superintendent of liquor control, the superintendent of ~~labor~~ 2474
industrial compliance, the superintendent of unclaimed funds, and 2475
the commissioner of securities, and shall have all powers and 2476
perform all duties vested by law in all officers, deputies, and 2477
employees of those offices. Except as provided in section 121.07 2478
of the Revised Code, wherever powers are conferred or duties 2479
imposed upon any of those officers, the powers and duties shall be 2480
construed as vested in the department of commerce. 2481

(C)(1) There is hereby created in the department of commerce 2482
a division of financial institutions, which shall have all powers 2483
and perform all duties vested by law in the superintendent of 2484
financial institutions. Wherever powers are conferred or duties 2485
imposed upon the superintendent of financial institutions, those 2486
powers and duties shall be construed as vested in the division of 2487
financial institutions. The division of financial institutions 2488
shall be administered by the superintendent of financial 2489
institutions. 2490

(2) All provisions of law governing the superintendent of 2491
financial institutions shall apply to and govern the 2492
superintendent of financial institutions provided for in this 2493
section; all authority vested by law in the superintendent of 2494
financial institutions with respect to the management of the 2495
division of financial institutions shall be construed as vested in 2496
the superintendent of financial institutions created by this 2497
section with respect to the division of financial institutions 2498
provided for in this section; and all rights, privileges, and 2499
emoluments conferred by law upon the superintendent of financial 2500
institutions shall be construed as conferred upon the 2501
superintendent of financial institutions as head of the division 2502
of financial institutions. The director of commerce shall not 2503
transfer from the division of financial institutions any of the 2504
functions specified in division (C)(2) of this section. 2505

(D) There is hereby created in the department of commerce a 2506
division of liquor control, which shall have all powers and 2507
perform all duties vested by law in the superintendent of liquor 2508
control. Wherever powers are conferred or duties are imposed upon 2509
the superintendent of liquor control, those powers and duties 2510
shall be construed as vested in the division of liquor control. 2511
The division of liquor control shall be administered by the 2512
superintendent of liquor control. 2513

(E) The director of commerce shall not be interested, 2514
directly or indirectly, in any firm or corporation which is a 2515
dealer in securities as defined in sections 1707.01 and 1707.14 of 2516
the Revised Code, or in any firm or corporation licensed under 2517
sections 1321.01 to 1321.19 of the Revised Code. 2518

(F) The director of commerce shall not have any official 2519
connection with a savings and loan association, a savings bank, a 2520
bank, a bank holding company, a savings and loan association 2521
holding company, a consumer finance company, or a credit union 2522
that is under the supervision of the division of financial 2523
institutions, or a subsidiary of any of the preceding entities, or 2524
be interested in the business thereof. 2525

(G) There is hereby created in the state treasury the 2526
division of administration fund. The fund shall receive 2527
assessments on the operating funds of the department of commerce 2528
in accordance with procedures prescribed by the director of 2529
commerce and approved by the director of budget and management. 2530
All operating expenses of the division of administration shall be 2531
paid from the division of administration fund. 2532

(H) There is hereby created in the department of commerce a 2533
division of real estate and professional licensing, which shall be 2534
under the control and supervision of the director of commerce. The 2535
division of real estate and professional licensing shall be 2536
administered by the superintendent of real estate and professional 2537

licensing. The superintendent of real estate and professional 2538
licensing shall exercise the powers and perform the functions and 2539
duties delegated to the superintendent under Chapters 4735., 2540
4763., and 4767. of the Revised Code. 2541

(I) There is hereby created in the department of commerce a 2542
division of ~~labor~~ industrial compliance, which shall have all 2543
powers and perform all duties vested by law in the superintendent 2544
of ~~labor~~ industrial compliance. Wherever powers are conferred or 2545
duties imposed upon the superintendent of ~~labor~~ industrial 2546
compliance, those powers and duties shall be construed as vested 2547
in the division of ~~labor~~ industrial compliance. The division of 2548
~~labor~~ industrial compliance shall be under the control and 2549
supervision of the director of commerce and be administered by the 2550
superintendent of ~~labor~~ industrial compliance. 2551

(J) There is hereby created in the department of commerce a 2552
division of unclaimed funds, which shall have all powers and 2553
perform all duties delegated to or vested by law in the 2554
superintendent of unclaimed funds. Wherever powers are conferred 2555
or duties imposed upon the superintendent of unclaimed funds, 2556
those powers and duties shall be construed as vested in the 2557
division of unclaimed funds. The division of unclaimed funds shall 2558
be under the control and supervision of the director of commerce 2559
and shall be administered by the superintendent of unclaimed 2560
funds. The superintendent of unclaimed funds shall exercise the 2561
powers and perform the functions and duties delegated to the 2562
superintendent by the director of commerce under section 121.07 2563
and Chapter 169. of the Revised Code, and as may otherwise be 2564
provided by law. 2565

(K) The department of commerce or a division of the 2566
department created by the Revised Code that is acting with 2567
authorization on the department's behalf may request from the 2568
bureau of criminal identification and investigation pursuant to 2569

section 109.572 of the Revised Code, or coordinate with 2570
appropriate federal, state, and local government agencies to 2571
accomplish, criminal records checks for the persons whose 2572
identities are required to be disclosed by an applicant for the 2573
issuance or transfer of a permit, license, certificate of 2574
registration, or certification issued or transferred by the 2575
department or division. At or before the time of making a request 2576
for a criminal records check, the department or division may 2577
require any person whose identity is required to be disclosed by 2578
an applicant for the issuance or transfer of such a license, 2579
permit, certificate of registration, or certification to submit to 2580
the department or division valid fingerprint impressions in a 2581
format and by any media or means acceptable to the bureau of 2582
criminal identification and investigation and, when applicable, 2583
the federal bureau of investigation. The department or division 2584
may cause the bureau of criminal identification and investigation 2585
to conduct a criminal records check through the federal bureau of 2586
investigation only if the person for whom the criminal records 2587
check would be conducted resides or works outside of this state or 2588
has resided or worked outside of this state during the preceding 2589
five years, or if a criminal records check conducted by the bureau 2590
of criminal identification and investigation within this state 2591
indicates that the person may have a criminal record outside of 2592
this state. 2593

In the case of a criminal records check under section 109.572 2594
of the Revised Code, the department or division shall forward to 2595
the bureau of criminal identification and investigation the 2596
requisite form, fingerprint impressions, and fee described in 2597
division (C) of that section. When requested by the department or 2598
division in accordance with this section, the bureau of criminal 2599
identification and investigation shall request from the federal 2600
bureau of investigation any information it has with respect to the 2601
person who is the subject of the requested criminal records check 2602

and shall forward the requisite fingerprint impressions and 2603
information to the federal bureau of investigation for that 2604
criminal records check. After conducting a criminal records check 2605
or receiving the results of a criminal records check from the 2606
federal bureau of investigation, the bureau of criminal 2607
identification and investigation shall provide the results to the 2608
department or division. 2609

The department or division may require any person about whom 2610
a criminal records check is requested to pay to the department or 2611
division the amount necessary to cover the fee charged to the 2612
department or division by the bureau of criminal identification 2613
and investigation under division (C)(3) of section 109.572 of the 2614
Revised Code, including, when applicable, any fee for a criminal 2615
records check conducted by the federal bureau of investigation. 2616

Sec. 121.083. The superintendent of ~~labor~~ industrial 2617
compliance in the department of commerce shall do all of the 2618
following: 2619

(A) Administer and enforce the general laws of this state 2620
pertaining to buildings, pressure piping, boilers, bedding, 2621
upholstered furniture, and stuffed toys, steam engineering, 2622
elevators, plumbing, licensed occupations regulated by the 2623
department, and travel agents, as they apply to plans review, 2624
inspection, code enforcement, testing, licensing, registration, 2625
and certification. 2626

(B) Exercise the powers and perform the duties delegated to 2627
the superintendent by the director of commerce under Chapters 2628
4109., 4111., and 4115. of the Revised Code. 2629

(C) Collect and collate statistics as are necessary. 2630

(D) Examine and license persons who desire to act as steam 2631
engineers, to operate steam boilers, and to act as inspectors of 2632

steam boilers, provide for the scope, conduct, and time of such 2633
examinations, provide for, regulate, and enforce the renewal and 2634
revocation of such licenses, inspect and examine steam boilers and 2635
make, publish, and enforce rules and orders for the construction, 2636
installation, inspection, and operation of steam boilers, and do, 2637
require, and enforce all things necessary to make such 2638
examination, inspection, and requirement efficient. 2639

(E) Rent and furnish offices as needed in cities in this 2640
state for the conduct of its affairs. 2641

(F) Oversee a chief of construction and compliance, a chief 2642
of operations and maintenance, a chief of licensing and 2643
certification, a chief of worker protection, and other designees 2644
appointed by the director to perform the duties described in this 2645
section. 2646

(G) Enforce the rules the board of building standards adopts 2647
pursuant to division (A)(2) of section 4104.43 of the Revised Code 2648
under the circumstances described in division (D) of that section. 2649

(H) Accept submissions, establish a fee for submissions, and 2650
review submissions of certified welding and brazing procedure 2651
specifications, procedure qualification records, and performance 2652
qualification records for building services piping as required by 2653
section 4104.44 of the Revised Code. 2654

Sec. 121.084. (A) All moneys collected under sections 2655
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 2656
4169.03, 4171.04, and 5104.051 of the Revised Code, and any other 2657
moneys collected by the division of ~~labor~~ industrial compliance 2658
shall be paid into the state treasury to the credit of the ~~labor~~ 2659
industrial compliance operating fund, which is hereby created. The 2660
department of commerce shall use the moneys in the fund for paying 2661
the operating expenses of the division and the administrative 2662
assessment described in division (B) of this section. 2663

(B) The director of commerce, with the approval of the 2664
director of budget and management, shall prescribe procedures for 2665
assessing the ~~labor~~ industrial compliance operating fund a 2666
proportionate share of the administrative costs of the department 2667
of commerce. The assessment shall be made in accordance with those 2668
procedures and be paid from the ~~labor~~ industrial compliance 2669
operating fund to the division of administration fund created in 2670
section 121.08 of the Revised Code. 2671

Sec. 121.35. (A) Subject to division (B) of this section, the 2672
following state agencies shall collaborate to revise and make more 2673
uniform the eligibility standards and eligibility determination 2674
procedures of programs the state agencies administer: 2675

(1) The department of aging; 2677

(2) The department of alcohol and drug addiction services; 2678

(3) The department of development; 2679

(4) The department of developmental disabilities; 2680

(5) The department of education; 2681

(6) The department of health; 2682

(7) The department of job and family services; 2683

(8) The department of mental health; 2684

(9) The rehabilitation services commission. 2685

(B) In revising eligibility standards and eligibility 2686
determination procedures, a state agency shall not make any 2687
program's eligibility standards or eligibility determination 2688
procedures inconsistent with state or federal law. To the extent 2689
authorized by state and federal law, the revisions may provide for 2690
the state agencies to share administrative operations. 2691

Sec. 122.07. (A) The department of development may do ~~either~~ 2692
any of the following: 2693

(1) Disseminate information concerning the industrial, 2694
commercial, governmental, educational, cultural, recreational, 2695
agricultural, and other advantages and attractions of the state; 2696

(2) Provide technical assistance to public and private 2697
agencies in the preparation of promotional programs designed to 2698
attract business, industry, and tourists to the state; 2699

(3) Enter into cooperative or contractual agreements, through 2700
the director of development, with any individual, organization, or 2701
business to create, administer, or otherwise be involved with Ohio 2702
tourism-related promotional programs. Compensation under such 2703
agreements shall be determined by the director and may include 2704
deferred compensation. This compensation is payable from the 2705
travel and tourism cooperative projects fund of the department. 2706
Any excess revenue generated under such a cooperative or 2707
contractual agreement shall be remitted to the fund to be 2708
reinvested in ongoing tourism marketing initiatives as authorized 2709
by law. 2710

(B) Records related to tourism market research submitted to 2711
or generated by the research office of the division of travel and 2712
tourism of the department of development, and any information 2713
taken for any purpose from such research, are not public records 2714
for the purposes of section 149.43 of the Revised Code. The 2715
department may use, however, such tourism market research in a 2716
public report if the director of the department determines that 2717
issuing and distributing the report would promote or market the 2718
state's travel and tourism industry or otherwise advance the 2719
purposes of this section. 2720

Sec. 122.862. There is hereby established in the state 2721

treasury the SellOhio global initiative fund. 2722

Sec. 123.01. (A) The department of administrative services, 2723
in addition to those powers enumerated in Chapters 124. and 125. 2724
of the Revised Code and provided elsewhere by law, shall exercise 2725
the following powers: 2726

(1) ~~To prepare, or contract to be prepared, by licensed 2727
engineers or architects, surveys, general and detailed plans, 2728
specifications, bills of materials, and estimates of cost for any 2729
projects, improvements, or public buildings to be constructed by 2730
state agencies that may be authorized by legislative 2731
appropriations or any other funds made available therefor, 2732
provided that the construction of the projects, improvements, or 2733
public buildings is a statutory duty of the department. This 2734
section does not require the independent employment of an 2735
architect or engineer as provided by section 153.01 of the Revised 2736
Code in the cases to which that section applies nor affect or 2737
alter the existing powers of the director of transportation.~~ 2738

(2) ~~To have general supervision over the construction of any 2739
projects, improvements, or public buildings constructed for a 2740
state agency and over the inspection of materials previous to 2741
their incorporation into those projects, improvements, or 2742
buildings;~~ 2743

(3) ~~To make contracts for and supervise the construction of 2744
any projects and improvements or the construction and repair of 2745
buildings under the control of a state agency, except contracts 2746
for the repair of buildings under the management and control of 2747
the departments of public safety, job and family services, mental 2748
health, developmental disabilities, rehabilitation and correction, 2749
and youth services, the bureau of workers' compensation, the 2750
rehabilitation services commission, and boards of trustees of 2751
educational and benevolent institutions and except contracts for 2752~~

~~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; 2784

~~(9)~~(5) To lease or grant easements or licenses for 2785
unproductive and unused lands or other property under the control 2786
of a state agency. Such leases, easements, or licenses ~~shall~~ may 2787
be granted to any person or entity, shall be for a period not to 2788
exceed fifteen years, and shall be executed for the state by the 2789
director of administrative services ~~and the governor and shall be~~ 2790
~~approved as to form by the attorney general, provided that leases,~~ 2791
~~easements, or licenses may be granted to any county, township,~~ 2792
~~municipal corporation, port authority, water or sewer district,~~ 2793
~~school district, library district, health district, park district,~~ 2794
~~soil and water conservation district, conservancy district, or~~ 2795
~~other political subdivision or taxing district, or any agency of~~ 2796
~~the United States government, for the exclusive use of that~~ 2797
~~agency, political subdivision, or taxing district, without any~~ 2798
~~right of sublease or assignment, for a period not to exceed~~ 2799
~~fifteen years, and~~ or the director's designee, provided that the 2800
director or the director's designee shall grant leases, easements, 2801
or licenses of university land for periods not to exceed 2802
twenty-five years for purposes approved by the respective 2803
university's board of trustees wherein the uses are compatible 2804
with the uses and needs of the university and may grant leases of 2805
university land for periods not to exceed forty years for purposes 2806
approved by the respective university's board of trustees pursuant 2807
to section ~~123.77~~ 123.17 of the Revised Code. 2808

~~(10)~~(6) To lease space for the use of a state agency; 2809

~~(11)~~(7) To have general supervision and care of the 2810
storerooms, offices, and buildings leased for the use of a state 2811
agency; 2812

~~(12)~~(8) To exercise general custodial care of all real 2813
property of the state; 2814

~~(13)~~(9) To assign and group together state offices in any 2815
city in the state and to establish, in cooperation with the state 2816
agencies involved, rules governing space requirements for office 2817
or storage use; 2818

~~(14)~~(10) To lease for a period not to exceed forty years, 2819
pursuant to a contract providing for the construction thereof 2820
under a lease-purchase plan, buildings, structures, and other 2821
improvements for any public purpose, and, in conjunction 2822
therewith, to grant leases, easements, or licenses for lands under 2823
the control of a state agency for a period not to exceed forty 2824
years. The lease-purchase plan shall provide that at the end of 2825
the lease period, the buildings, structures, and related 2826
improvements, together with the land on which they are situated, 2827
shall become the property of the state without cost. 2828

(a) Whenever any building, structure, or other improvement is 2829
to be so leased by a state agency, the department shall retain 2830
either basic plans, specifications, bills of materials, and 2831
estimates of cost with sufficient detail to afford bidders all 2832
needed information or, alternatively, all of the following plans, 2833
details, bills of materials, and specifications: 2834

(i) Full and accurate plans suitable for the use of mechanics 2835
and other builders in the improvement; 2836

(ii) Details to scale and full sized, so drawn and 2837
represented as to be easily understood; 2838

(iii) Accurate bills showing the exact quantity of different 2839
kinds of material necessary to the construction; 2840

(iv) Definite and complete specifications of the work to be 2841
performed, together with such directions as will enable a 2842
competent mechanic or other builder to carry them out and afford 2843
bidders all needed information; 2844

(v) A full and accurate estimate of each item of expense and 2845

of the aggregate cost thereof. 2846

(b) The department shall give public notice, in such 2847
newspaper, in such form, and with such phraseology as the director 2848
of administrative services prescribes, published once each week 2849
for four consecutive weeks, of the time when and place where bids 2850
will be received for entering into an agreement to lease to a 2851
state agency a building, structure, or other improvement. The last 2852
publication shall be at least eight days preceding the day for 2853
opening the bids. The bids shall contain the terms upon which the 2854
builder would propose to lease the building, structure, or other 2855
improvement to the state agency. The form of the bid approved by 2856
the department shall be used, and a bid is invalid and shall not 2857
be considered unless that form is used without change, alteration, 2858
or addition. Before submitting bids pursuant to this section, any 2859
builder shall comply with Chapter 153. of the Revised Code. 2860

(c) On the day and at the place named for receiving bids for 2861
entering into lease agreements with a state agency, the director 2862
of administrative services shall open the bids and shall publicly 2863
proceed immediately to tabulate the bids upon duplicate sheets. No 2864
lease agreement shall be entered into until the bureau of workers' 2865
compensation has certified that the person to be awarded the lease 2866
agreement has complied with Chapter 4123. of the Revised Code, 2867
until, if the builder submitting the lowest and best bid is a 2868
foreign corporation, the secretary of state has certified that the 2869
corporation is authorized to do business in this state, until, if 2870
the builder submitting the lowest and best bid is a person 2871
nonresident of this state, the person has filed with the secretary 2872
of state a power of attorney designating the secretary of state as 2873
its agent for the purpose of accepting service of summons in any 2874
action brought under Chapter 4123. of the Revised Code, and until 2875
the agreement is submitted to the attorney general and the 2876
attorney general's approval is certified thereon. Within thirty 2877

days after the day on which the bids are received, the department 2878
shall investigate the bids received and shall determine that the 2879
bureau and the secretary of state have made the certifications 2880
required by this section of the builder who has submitted the 2881
lowest and best bid. Within ten days of the completion of the 2882
investigation of the bids, the department shall award the lease 2883
agreement to the builder who has submitted the lowest and best bid 2884
and who has been certified by the bureau and secretary of state as 2885
required by this section. If bidding for the lease agreement has 2886
been conducted upon the basis of basic plans, specifications, 2887
bills of materials, and estimates of costs, upon the award to the 2888
builder the department, or the builder with the approval of the 2889
department, shall appoint an architect or engineer licensed in 2890
this state to prepare such further detailed plans, specifications, 2891
and bills of materials as are required to construct the building, 2892
structure, or improvement. The department shall adopt such rules 2893
as are necessary to give effect to this section. The department 2894
may reject any bid. Where there is reason to believe there is 2895
collusion or combination among bidders, the bids of those 2896
concerned therein shall be rejected. 2897

~~(15)~~(11) To acquire by purchase, gift, devise, or grant and 2898
to transfer, lease, or otherwise dispose of all real property 2899
required to assist in the development of a conversion facility as 2900
defined in section 5709.30 of the Revised Code as that section 2901
existed before its repeal by Amended Substitute House Bill 95 of 2902
the 125th general assembly; 2903

~~(16)~~(12) To lease for a period not to exceed forty years, 2904
notwithstanding any other division of this section, the 2905
state-owned property located at 408-450 East Town Street, 2906
Columbus, Ohio, formerly the state school for the deaf, to a 2907
developer in accordance with this section. "Developer," as used in 2908
this section, has the same meaning as in section 123.77 of the 2909

Revised Code. 2910

Such a lease shall be for the purpose of development of the 2911
land for use by senior citizens by constructing, altering, 2912
renovating, repairing, expanding, and improving the site as it 2913
existed on June 25, 1982. A developer desiring to lease the land 2914
shall prepare for submission to the department a plan for 2915
development. Plans shall include provisions for roads, sewers, 2916
water lines, waste disposal, water supply, and similar matters to 2917
meet the requirements of state and local laws. The plans shall 2918
also include provision for protection of the property by insurance 2919
or otherwise, and plans for financing the development, and shall 2920
set forth details of the developer's financial responsibility. 2921

The department may employ, as employees or consultants, 2922
persons needed to assist in reviewing the development plans. Those 2923
persons may include attorneys, financial experts, engineers, and 2924
other necessary experts. The department shall review the 2925
development plans and may enter into a lease if it finds all of 2926
the following: 2927

(a) The best interests of the state will be promoted by 2928
entering into a lease with the developer; 2929

(b) The development plans are satisfactory; 2930

(c) The developer has established the developer's financial 2931
responsibility and satisfactory plans for financing the 2932
development. 2933

The lease shall contain a provision that construction or 2934
renovation of the buildings, roads, structures, and other 2935
necessary facilities shall begin within one year after the date of 2936
the lease and shall proceed according to a schedule agreed to 2937
between the department and the developer or the lease will be 2938
terminated. The lease shall contain such conditions and 2939
stipulations as the director considers necessary to preserve the 2940

best interest of the state. Moneys received by the state pursuant 2941
to this lease shall be paid into the general revenue fund. The 2942
lease shall provide that at the end of the lease period the 2943
buildings, structures, and related improvements shall become the 2944
property of the state without cost. 2945

~~(17)~~(13) To manage the use of space owned and controlled by 2946
the department, including space in property under the jurisdiction 2947
of the Ohio building authority, by doing all of the following: 2948

(a) Biennially implementing, by state agency location, a 2949
census of agency employees assigned space; 2950

(b) Periodically in the discretion of the director of 2951
administrative services: 2952

(i) Requiring each state agency to categorize the use of 2953
space allotted to the agency between office space, common areas, 2954
storage space, and other uses, and to report its findings to the 2955
department; 2956

(ii) Creating and updating a master space utilization plan 2957
for all space allotted to state agencies. The plan shall 2958
incorporate space utilization metrics. 2959

(iii) Conducting a cost-benefit analysis to determine the 2960
effectiveness of state-owned buildings; 2961

(iv) Assessing the alternatives associated with consolidating 2962
the commercial leases for buildings located in Columbus. 2963

(c) Commissioning a comprehensive space utilization and 2964
capacity study in order to determine the feasibility of 2965
consolidating existing commercially leased space used by state 2966
agencies into a new state-owned facility. 2967

(14) To adopt rules to ensure that energy efficiency and 2968
conservation is considered in the purchase of products and 2969
equipment, except motor vehicles, by any state agency, department, 2970

division, bureau, office, unit, board, commission, authority, 2971
quasi-governmental entity, or institution. The department may 2972
require minimum energy efficiency standards for purchased products 2973
and equipment based on federal testing and labeling if available 2974
or on standards developed by the department. When possible, the 2975
rules shall apply to the competitive selection of energy consuming 2976
systems, components, and equipment under Chapter 125. of the 2977
Revised Code. 2978

(15) To ensure energy efficient and energy conserving 2979
purchasing practices by doing all of the following: 2980

(a) Identifying available energy efficiency and conservation 2981
opportunities; 2982

(b) Providing for interchange of information among purchasing 2983
agencies; 2984

(c) Identifying laws, policies, rules, and procedures that 2985
should be modified; 2986

(d) Monitoring experience with and the cost-effectiveness of 2987
this state's purchase and use of motor vehicles and of major 2988
energy-consuming systems, components, equipment, and products 2989
having a significant impact on energy consumption by the 2990
government; 2991

(e) Providing technical assistance and training to state 2992
employees involved in the purchasing process; 2993

(f) Working with the department of development to make 2994
recommendations regarding planning and implementation of 2995
purchasing policies and procedures that are supportive of energy 2996
efficiency and conservation. 2997

(16) To require all state agencies, departments, divisions, 2998
bureaus, offices, units, commissions, boards, authorities, 2999
quasi-governmental entities, institutions, and state institutions 3000

of higher education to implement procedures to ensure that all of 3001
the passenger automobiles they acquire in each fiscal year, except 3002
for those passenger automobiles acquired for use in law 3003
enforcement or emergency rescue work, achieve a fleet average fuel 3004
economy of not less than the fleet average fuel economy for that 3005
fiscal year as the department shall prescribe by rule. The 3006
department shall adopt the rule prior to the beginning of the 3007
fiscal year, in accordance with the average fuel economy standards 3008
established by federal law for passenger automobiles manufactured 3009
during the model year that begins during the fiscal year. 3010

Each state agency, department, division, bureau, office, 3011
unit, commission, board, authority, quasi-governmental entity, 3012
institution, and state institution of higher education shall 3013
determine its fleet average fuel economy by dividing the total 3014
number of passenger vehicles acquired during the fiscal year, 3015
except for those passenger vehicles acquired for use in law 3016
enforcement or emergency rescue work, by a sum of terms, each of 3017
which is a fraction created by dividing the number of passenger 3018
vehicles of a given make, model, and year, except for passenger 3019
vehicles acquired for use in law enforcement or emergency rescue 3020
work, acquired during the fiscal year by the fuel economy measured 3021
by the administrator of the United States environmental protection 3022
agency, for the given make, model, and year of vehicle, that 3023
constitutes an average fuel economy for combined city and highway 3024
driving. 3025

As used in division (A)(16) of this section, "acquired" means 3026
leased for a period of sixty continuous days or more, or 3027
purchased. 3028

(B) This section and section 125.02 of the Revised Code shall 3029
not interfere with any of the following: 3030

(1) The power of the adjutant general to purchase military 3031
supplies, or with the custody of the adjutant general of property 3032

leased, purchased, or constructed by the state and used for 3033
military purposes, or with the functions of the adjutant general 3034
as director of state armories; 3035

(2) The power of the director of transportation in acquiring 3036
rights-of-way for the state highway system, or the leasing of 3037
lands for division or resident district offices, or the leasing of 3038
lands or buildings required in the maintenance operations of the 3039
department of transportation, or the purchase of real property for 3040
garage sites or division or resident district offices, or in 3041
preparing plans and specifications for and constructing such 3042
buildings as the director may require in the administration of the 3043
department; 3044

(3) The power of the director of public safety and the 3045
registrar of motor vehicles to purchase or lease real property and 3046
buildings to be used solely as locations to which a deputy 3047
registrar is assigned pursuant to division (B) of section 4507.011 3048
of the Revised Code and from which the deputy registrar is to 3049
conduct the deputy registrar's business, the power of the director 3050
of public safety to purchase or lease real property and buildings 3051
to be used as locations for division or district offices as 3052
required in the maintenance of operations of the department of 3053
public safety, and the power of the superintendent of the state 3054
highway patrol in the purchase or leasing of real property and 3055
buildings needed by the patrol, to negotiate the sale of real 3056
property owned by the patrol, to rent or lease real property owned 3057
or leased by the patrol, and to make or cause to be made repairs 3058
to all property owned or under the control of the patrol; 3059

(4) The power of the division of liquor control in the 3060
leasing or purchasing of retail outlets and warehouse facilities 3061
for the use of the division; 3062

(5) The power of the director of development to enter into 3063
leases of real property, buildings, and office space to be used 3064

solely as locations for the state's foreign offices to carry out 3065
the purposes of section 122.05 of the Revised Code; 3066

(6) The power of the director of environmental protection to 3067
enter into environmental covenants, to grant and accept easements, 3068
or to sell property pursuant to division (G) of section 3745.01 of 3069
the Revised Code. 3070

(C) Purchases for, and the custody and repair of, buildings 3071
under the management and control of the capitol square review and 3072
advisory board, the rehabilitation services commission, the bureau 3073
of workers' compensation, or the departments of public safety, job 3074
and family services, mental health, developmental disabilities, 3075
and rehabilitation and correction; buildings of educational and 3076
benevolent institutions under the management and control of boards 3077
of trustees; and purchases or leases for, and the custody and 3078
repair of, office space used for the purposes of the joint 3079
legislative ethics committee are not subject to the control and 3080
jurisdiction of the department of administrative services. 3081

If the joint legislative ethics committee so requests, the 3082
committee and the director of administrative services may enter 3083
into a contract under which the department of administrative 3084
services agrees to perform any services requested by the committee 3085
that the department is authorized under this section to perform. 3086

(D) Any instrument by which real property is acquired 3087
pursuant to this section shall identify the agency of the state 3088
that has the use and benefit of the real property as specified in 3089
section 5301.012 of the Revised Code. 3090

Sec. ~~123.04~~ 123.02. The director of administrative services 3091
shall be appointed superintendent of public works and shall have 3092
the care and control of the public works of the state and shall 3093
protect, maintain, and keep them in repair. 3094

Subject to the approval of the governor, the director may 3095
purchase on behalf of the state such real or personal property, 3096
rights, or privileges as are necessary, in the director's 3097
judgment, to acquire in the maintenance of the public works or 3098
their improvement. 3099

Any instrument by which the state or an agency of the state 3100
acquires real property pursuant to this section shall identify the 3101
agency of the state that has the use and benefit of the real 3102
property as specified in section 5301.012 of the Revised Code. 3103

Sec. ~~123.07~~ 123.03. The director of administrative services 3104
may maintain an action in the name of the state for violations of 3105
any law relating to the public works for an injury to property 3106
pertaining to the public works, or for any other cause which is 3107
necessary in the performance of ~~his~~ the director's duties. 3108

Sec. ~~123.09~~ 123.04. The director of administrative services 3109
shall have supervision of the public works of the state and shall 3110
make such rules and regulations for the ~~improvement,~~ maintenance, 3111
and operation of the public works as are necessary. 3112

Sec. ~~123.10~~ 123.05. ~~(A)~~ The director of administrative 3113
services shall regulate the rate of tolls to be collected on the 3114
public works of the state, and shall fix all rentals and collect 3115
all tolls, rents, fines, commissions, fees, and other revenues 3116
arising from any source in the public works, including the sale, 3117
~~construction,~~ purchase, or rental of property, except that the 3118
director shall not collect a commission or fee from a real estate 3119
broker or the private owner when real property is leased or rented 3120
to the state. 3121

~~(B) There is hereby created in the state treasury the state 3122
architect's fund which shall consist of money received by the 3123
department of administrative services under division (A) of this 3124~~

~~section, fees paid under section 123.17 of the Revised Code, 3125
transfers of money to the fund authorized by the general assembly, 3126
and such amount of the investment earnings of the administrative 3127
building fund created in division (F) of section 154.24 of the 3128
Revised Code as the director of budget and management determines 3129
to be appropriate and in excess of the amounts required to meet 3130
estimated federal arbitrage rebate requirements. Money in the fund 3131
shall be used by the department of administrative services for the 3132
following purposes: 3133~~

~~(1) To pay personnel and other administrative expenses of the 3134
department; 3135~~

~~(2) To pay the cost of conducting evaluations of public 3136
works; 3137~~

~~(3) To pay the cost of building design specifications; 3138~~

~~(4) To pay the cost of providing project management services; 3139~~

~~(5) To pay the cost of operating the local administration 3140
competency certification program prescribed by section 123.17 of 3141
the Revised Code; 3142~~

~~(6) Any other purposes that the director of administrative 3143
services determines to be necessary for the department to execute 3144
its duties under this chapter. 3145~~

Sec. ~~123.024~~ 123.06. (A) The department of administrative 3146
services shall assign and make available, at state expense, 3147
suitable office space in state-owned facilities to accommodate the 3148
office operations of the state headquarters of both of the 3149
following: 3150

(1) All veterans organizations in this state that either are 3151
incorporated and issued a charter by the congress of the United 3152
States or are recognized by the United States department of 3153
veterans affairs; 3154

(2) The auxiliary organizations of veterans organizations 3155
described in division (A)(1) of this section. 3156

(B) The department may situate office space for each 3157
auxiliary organization of a veterans organization with or near the 3158
office space of that veterans organization. 3159

Sec. ~~123.11~~ 123.07. Each state agency and any county, 3160
township, or municipal corporation owning, leasing, or controlling 3161
the operation of parking spaces for use by its employees may 3162
provide preferential parking for those vehicles used in carpools, 3163
vanpools, and buspools. The department of administrative services 3164
shall coordinate the efforts of the state agencies in providing 3165
preferential parking for such vehicles. 3166

Sec. ~~123.13~~ 123.08. The director of administrative services 3167
shall appoint such ~~foreman forepersons, patrolmen patrol officers,~~ 3168
lock tenders, inspectors, engineers, and all other employees as 3169
are necessary for the ~~improvement,~~ maintenance, and operation of 3170
the public works. They shall be assigned to duty under the 3171
supervision of the director, under rules and regulations 3172
prescribed by ~~him~~ the director. Any such employee, when deemed 3173
necessary by the director, shall give proper bond to the state, 3174
conditioned for the faithful performance of ~~his~~ the employee's 3175
duties. Such bonds may, in the discretion of the director, be 3176
individual, schedule, or blanket bonds. 3177

Sec. ~~123.14~~ 123.09. All claims against the state for the 3178
~~improvement,~~ repair, maintenance, and operation of the public 3179
works of Ohio, including salary and expenses of all employees 3180
engaged in such work, shall be paid upon the order of the director 3181
of administrative services. 3182

Sec. ~~123.15~~ 123.10. (A) As used in this section and section 3183

~~123.21~~ 123.11 of the Revised Code, "public exigency" means an 3184
injury or obstruction that occurs in any public works of the state 3185
maintained by the director of administrative services and that 3186
materially impairs its immediate use or places in jeopardy 3187
property adjacent to it; an immediate danger of such an injury or 3188
obstruction; or an injury or obstruction, or an immediate danger 3189
of an injury or obstruction, that occurs ~~during the process of~~ 3190
~~construction of~~ in any public works of the state maintained by the 3191
director of administrative services and that materially impairs 3192
its immediate use or places in jeopardy property adjacent to it. 3193

(B) ~~The~~ When a declaration of public exigency is issued 3194
pursuant to division (C) of this section, the director of 3195
administrative services may request the Ohio facilities 3196
construction commission to enter into contracts with proper 3197
persons for the performance of labor, the furnishing of materials, 3198
or the construction of any structures and buildings necessary to 3199
the maintenance, control, and management of the public works of 3200
the state or any part of those public works. ~~Except as provided in~~ 3201
~~division (C) of this section for public exigencies, the director~~ 3202
~~shall advertise, award, and administer those~~ Any contracts in 3203
~~accordance with the requirements~~ awarded for the work performed 3204
pursuant to the declaration of a public exigency may be awarded 3205
without competitive bidding or selection as set forth in Chapter 3206
153. of the Revised Code. 3207

(C) The director of administrative services may issue a 3208
declaration of a public exigency on the director's own initiative 3209
or upon the request of the director of any state agency. The 3210
director's declaration shall identify the specific injury, 3211
obstruction, or danger that is the subject of the declaration and 3212
shall set forth a dollar limitation for the repair, removal, or 3213
prevention of that exigency under the declaration. 3214

Before any project to repair, remove, or prevent a public 3215

exigency under the director's declaration may begin, the director 3216
shall send notice of the project, in writing, to the director of 3217
budget and management and to the members of the controlling board. 3218
That notice shall detail the project to be undertaken to address 3219
the public exigency and shall include a copy of the director's 3220
declaration that establishes the monetary limitations on that 3221
project. 3222

Sec. ~~123.21~~ 123.11. When a public exigency, as defined in 3223
division (A) of section ~~123.15~~ 123.10 of the Revised Code, exists, 3224
the director of administrative services may take possession of 3225
lands and use them, or materials and other property necessary for 3226
the maintenance, protection, or repair of the public works, in 3227
accordance with sections 163.01 to 163.22 of the Revised Code. 3228

Sec. ~~123.46~~ 123.12. No land lease or sale of state lands 3229
shall be made by the director of administrative services except 3230
upon the written approval of the governor and the attorney 3231
general. 3232

Sec. ~~123.47~~ 123.13. Except as otherwise provided by law, the 3233
director of administrative services shall have the custody and 3234
control of the books, records, papers, surveys, maps, plats, and 3235
documents that pertain to any of the public works of this state. 3236

Sec. ~~123.48~~ 123.14. The director of administrative services 3237
shall make an annual report to the governor containing a statement 3238
of the expenses of the public works under ~~his~~ the director's 3239
supervision during the preceding year, setting forth an account of 3240
moneys expended on each of the public works during the year, and 3241
such other information and records as ~~he~~ the director deems 3242
proper. Such report shall contain a statement of the moneys 3243
received from all sources and an estimate of the appropriations 3244

necessary to maintain the public works and keep them in repair. 3245
The report shall also contain a list of all persons regularly 3246
employed, together with the salary, compensation, or allowance 3247
paid each. 3248

~~He~~ The director shall further from time to time when ~~he~~ the 3249
director deems it necessary, or when called upon by the governor, 3250
to do so, make such other reports as are proper, touching on the 3251
general condition and welfare of the public works and the 3252
drainage, leaseholds, and water powers incident thereto. 3253

Sec. ~~123.49~~ 123.15. The department of administrative services 3254
may adopt, amend, and rescind rules pertaining to lands under the 3255
supervision of the department in accordance with Chapter 119. of 3256
the Revised Code. 3257

Sec. 123.152. (A) As used in this section, "EDGE business 3258
enterprise" means a sole proprietorship, association, partnership, 3259
corporation, limited liability corporation, or joint venture 3260
certified as a participant in the encouraging diversity, growth, 3261
and equity program by the director of administrative services 3262
under this section of the Revised Code. 3263

(B) The director of administrative services shall establish a 3264
business assistance program known as the encouraging diversity, 3265
growth, and equity program and shall adopt rules in accordance 3266
with Chapter 119. of the Revised Code to administer the program 3267
that do all of the following: 3268

(1) Establish procedures by which a sole proprietorship, 3269
association, partnership, corporation, limited liability 3270
corporation, or joint venture may apply for certification as an 3271
EDGE business enterprise; 3272

(2) Except as provided in division (B)(14) of this section, 3273
establish agency procurement goals for contracting with EDGE 3274

business enterprises in the award of contracts under Chapters 3275
123., 125., and 153. of the Revised Code based on the availability 3276
of eligible program participants by region or geographic area, as 3277
determined by the director, and by standard industrial code or 3278
equivalent code classification. 3279

(a) Goals established under division (B)(2) of this section 3280
shall be based on a percentage level of participation and a 3281
percentage of contractor availability. 3282

(b) Goals established under division (B)(2) of this section 3283
shall be applied at the contract level, relative to an overall 3284
dollar goal for each state agency, in accordance with the 3285
following certification categories: construction, architecture, 3286
and engineering; professional services; goods and services; and 3287
information technology services. 3288

(3) Establish a system of certifying EDGE business 3289
enterprises based on a requirement that the business owner or 3290
owners show both social and economic disadvantage based on the 3291
following, as determined to be sufficient by the director: 3292

(a) Relative wealth of the business seeking certification as 3293
well as the personal wealth of the owner or owners of the 3294
business; 3295

(b) Social disadvantage based on any of the following: 3296

(i) A rebuttable presumption when the business owner or 3297
owners demonstrate membership in a racial minority group or show 3298
personal disadvantage due to color, ethnic origin, gender, 3299
physical disability, long-term residence in an environment 3300
isolated from the mainstream of American society, location in an 3301
area of high unemployment; 3302

(ii) Some other demonstration of personal disadvantage not 3303
common to other small businesses; 3304

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|--|------------------------------|
| (iii) By business location in a qualified census tract. | 3305 |
| (c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts. | 3306 3307 3308 3309 |
| (4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification; | 3310 3311 3312 |
| (5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director; | 3313 3314 3315 3316 |
| (6) Establish a point system or comparable system to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services; | 3317 3318 3319 3320 |
| (7) Establish a system to track data and analyze each certification category established under division (B)(2)(b) of this section; | 3321 3322 3323 |
| (8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals; | 3324 3325 |
| (9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program; | 3326 3327 3328 |
| (10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes; | 3329 3330 3331 |
| (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; | 3332 3333 3334 |

(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;

(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies;

(14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio ~~school~~ facilities construction commission created in section ~~3318.30~~ 123.20 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.

(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.

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

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

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

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

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(B) The development plans are satisfactory.

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

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

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A lease may be entered into pursuant to this section for an
annual rent agreed to between the department and the developer for
a maximum term of forty years and may be renewed for a like or
lesser term. The lease shall contain a provision that construction

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of buildings, structures, roads, and other necessary facilities 3397
shall begin within one year after the date of the lease and shall 3398
proceed according to a schedule agreed to between the department 3399
and the developer or the lease will be terminated. Moneys received 3400
by the state pursuant to such leases shall be paid into the state 3401
treasury as an addition to the appropriation made to the 3402
university which has control or jurisdiction of the land or to 3403
which the land belongs. 3404

Sec. ~~123.08~~ 123.18. The director of administrative services 3405
may administer oaths to persons required by law to file affidavits 3406
or statements in the department of administrative services and to 3407
witnesses who are examined in matters pertaining to the 3408
administration of the public works. 3409

Sec. 123.20. (A) There is hereby created the Ohio facilities 3410
construction commission. The commission shall administer the 3411
design and construction of improvements to public facilities of 3412
the state in accordance with this chapter and other provisions of 3413
the Revised Code. 3414

The commission is a body corporate and politic, an agency of 3415
state government and an instrumentality of the state, performing 3416
essential governmental functions of this state. The carrying out 3417
of the purposes and the exercise by the commission of its powers 3418
are essential public functions and public purposes of the state. 3419
The commission may, in its own name, sue and be sued, enter into 3420
contracts, and perform all the powers and duties given to it by 3421
the Revised Code, but it does not have and shall not exercise the 3422
power of eminent domain. In its discretion and as it determines 3423
appropriate, the commission may delegate to any of its members, 3424
executive director, or other employees any of the commission's 3425
powers and duties to carry out its functions. 3426

(B) The commission shall consist of three members: the 3427
director of the office of budget and management and the director 3428
of administrative services, or their designees, and a member whom 3429
the governor shall appoint. 3430

Members of the commission shall serve without compensation. 3431

Within sixty days after the effective date of this section, 3432
the commission shall meet and organize by electing voting members 3433
as the chairperson and vice-chairperson of the commission, who 3434
shall hold their offices until the next organizational meeting of 3435
the commission. Organizational meetings of the commission shall be 3436
held at the first meeting of each calendar year. At each 3437
organizational meeting, the commission shall elect from among its 3438
voting members a chairperson and vice-chairperson, who shall serve 3439
until the next annual organizational meeting. The commission shall 3440
adopt rules pursuant to section 111.15 of the Revised Code for the 3441
conduct of its internal business and shall keep a journal of its 3442
proceedings. Including the organizational meeting, the commission 3443
shall meet at least once each calendar year. 3444

Two members of the commission constitute a quorum, and the 3445
affirmative vote of two members is necessary for approval of any 3446
action taken by the commission. A vacancy in the membership of the 3447
commission does not impair a quorum from exercising all the rights 3448
and performing all the duties of the commission. Meetings of the 3449
commission may be held anywhere in the state and shall be held in 3450
compliance with section 121.22 of the Revised Code. 3451

(C) Within sixty days after the effective date of this 3452
section, the governor shall appoint a member to the commission. 3453
The initial appointment shall be for a term ending three years 3454
after the effective date of this section, with subsequent terms 3455
ending three years after they begin, on the same day of the same 3456
month as the initial term. 3457

A vacancy for the member appointed by the governor shall be 3458
filled in the same manner as provided for the original 3459
appointment. The appointed member shall hold office for the 3460
remainder of the term for which the vacancy existed. After the 3461
expiration of the term, the appointed member shall continue in 3462
office for a period of sixty days or until the appointed member's 3463
successor takes office, whichever period is shorter. 3464

(D) The commission shall file an annual report of its 3465
activities and finances with the governor, speaker of the house of 3466
representatives, president of the senate, and chairpersons of the 3467
house and senate finance committees. 3468

(E) The commission shall be exempt from the requirements of 3469
sections 101.82 to 101.87 of the Revised Code. 3470

Sec. 123.201. There is hereby created in the state treasury 3471
the Ohio facilities construction commission fund, consisting of 3472
transfers of moneys authorized by the general assembly and 3473
revenues received by the Ohio facilities construction commission 3474
under section 123.21 of the Revised Code. Investment earnings on 3475
moneys in the fund shall be credited to the fund. Moneys in the 3476
fund may be used by the commission, in performing its duties under 3477
this chapter, to pay personnel and other administrative expenses, 3478
to pay the cost of preparing building design specifications, to 3479
pay the cost of providing project management services, and for 3480
other purposes determined by the commission to be necessary to 3481
fulfill its duties under this chapter. 3482

Sec. 123.21. (A) The Ohio facilities construction commission 3483
may perform any act and ensure the performance of any function 3484
necessary or appropriate to carry out the purposes of, and 3485
exercise the powers granted under this chapter or any other 3486
provision of the Revised Code, including any of the following: 3487

(1) Prepare, or contract to be prepared, by licensed 3488
engineers or architects, surveys, general and detailed plans, 3489
specifications, bills of materials, and estimates of cost for any 3490
projects, improvements, or public buildings to be constructed by 3491
state agencies that may be authorized by legislative 3492
appropriations or any other funds made available therefor, 3493
provided that the construction of the projects, improvements, or 3494
public buildings is a statutory duty of the commission. This 3495
section does not require the independent employment of an 3496
architect or engineer as provided by section 153.01 of the Revised 3497
Code in the cases to which section 153.01 of the Revised Code 3498
applies. This section does not affect or alter the existing powers 3499
of the director of transportation. 3500

(2) Have general supervision over the construction of any 3501
projects, improvements, or public buildings constructed for a 3502
state agency and over the inspection of materials prior to their 3503
incorporation into those projects, improvements, or buildings. 3504

(3) Make contracts for and supervise the design and 3505
construction of any projects and improvements or the construction 3506
and repair of buildings under the control of a state agency. All 3507
such contracts may be based in whole or in part on the unit price 3508
or maximum estimated cost, with payment computed and made upon 3509
actual quantities or units. 3510

(4) Adopt, amend, and rescind rules pertaining to the 3511
administration of the construction of the public works of the 3512
state as required by law, in accordance with Chapter 119. of the 3513
Revised Code. 3514

(5) Contract with, retain the services of, or designate, and 3515
fix the compensation of, such agents, accountants, consultants, 3516
advisers, and other independent contractors as may be necessary or 3517
desirable to carry out the programs authorized under this chapter, 3518
or authorize the executive director to perform such powers and 3519

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| <u>duties.</u> | 3520 |
| <u>(6) Receive and accept any gifts, grants, donations, and pledges, and receipts therefrom, to be used for the programs authorized under this chapter.</u> | 3521 3522 3523 |
| <u>(7) Make and enter into all contracts, commitments, and agreements, and execute all instruments, necessary or incidental to the performance of its duties and the execution of its rights and powers under this chapter, or authorize the executive director to perform such powers and duties.</u> | 3524 3525 3526 3527 3528 |
| <u>(8) Debar a contractor as provided in section 153.02 of the Revised Code.</u> | 3529 3530 |
| <u>(B) The commission shall appoint and fix the compensation of an executive director who shall serve at the pleasure of the commission. The executive director shall exercise all powers that the commission possesses, supervise the operations of the commission, and perform such other duties as delegated by the commission. The executive director also shall employ and fix the compensation of such employees as will facilitate the activities and purposes of the commission, who shall serve at the pleasure of the executive director.</u> | 3531 3532 3533 3534 3535 3536 3537 3538 3539 |
| <u>(C) The attorney general shall serve as the legal representative for the commission and may appoint other counsel as necessary for that purpose in accordance with section 109.07 of the Revised Code.</u> | 3540 3541 3542 3543 |
| Sec. 123.011 123.22. (A) As used in this section: | 3544 |
| (1) "Construct" includes reconstruct, improve, renovate, enlarge, or otherwise alter. | 3545 3546 |
| (2) "Energy consumption analysis" means the evaluation of all energy consuming systems, components, and equipment by demand and type of energy, including the internal energy load imposed on a | 3547 3548 3549 |

facility by its occupants and the external energy load imposed by 3550
climatic conditions. 3551

(3) "Energy performance index" means a number describing the 3552
energy requirements of a facility per square foot of floor space 3553
or per cubic foot of occupied volume as appropriate under defined 3554
internal and external ambient conditions over an entire seasonal 3555
cycle. 3556

(4) "Facility" means a building or other structure, or part 3557
of a building or other structure, that includes provision for a 3558
heating, refrigeration, ventilation, cooling, lighting, hot water, 3559
or other major energy consuming system, component, or equipment. 3560

(5) "Life-cycle cost analysis" means a general approach to 3561
economic evaluation that takes into account all dollar costs 3562
related to owning, operating, maintaining, and ultimately 3563
disposing of a project over the appropriate study period. 3564

(6) "Political subdivision" means a county, township, 3565
municipal corporation, board of education of any school district, 3566
or any other body corporate and politic that is responsible for 3567
government activities in a geographic area smaller than that of 3568
the state. 3569

(7) "State funded" means funded in whole or in part through 3570
appropriation by the general assembly or through the use of any 3571
guarantee provided by this state. 3572

(8) "State institution of higher education" has the same 3573
meaning as in section 3345.011 of the Revised Code. 3574

(B) ~~There is hereby created within the department of 3575
administrative services the office of energy services. The office 3576
shall be under the supervision of a manager, who shall be 3577
appointed by the director of administrative services. The director 3578
shall assign to the office such number of employees and furnish 3579
such equipment and supplies as are necessary for the performance 3580~~

~~of the office's duties.~~ 3581

The ~~office~~ Ohio facilities construction commission shall 3582
develop energy efficiency and conservation programs ~~in each of the~~ 3583
~~following areas:~~ 3584

~~(1) New~~ for new construction design and review~~;~~ 3585

~~(2) Existing~~ and for existing building audit and retrofit~~;~~ 3586

~~(3) Energy efficient procurement;~~ 3587

~~(4) Alternative fuel vehicles.~~ 3588

The ~~office~~ commission may accept and administer grants from 3589
public and private sources for carrying out any of its duties 3590
under this section. 3591

(C) No state agency, department, division, bureau, office, 3592
unit, board, commission, authority, quasi-governmental entity, or 3593
institution, ~~including those agencies otherwise excluded from the~~ 3594
~~jurisdiction of the department under division (A)(3) of section~~ 3595
~~123.01 of the Revised Code,~~ shall lease, construct, or cause to be 3596
leased or constructed, within the limits prescribed in this 3597
section, a state-funded facility, without a proper life-cycle cost 3598
analysis or, in the case of a lease, an energy consumption 3599
analysis, as computed or prepared by a qualified architect or 3600
engineer in accordance with the rules required by division (D) of 3601
this section. 3602

Construction shall proceed only upon the disclosure to the 3603
office, for the facility chosen, of the life-cycle costs as 3604
determined in this section and the capitalization of the initial 3605
construction costs of the building. The results of life-cycle cost 3606
analysis shall be a primary consideration in the selection of a 3607
building design. That analysis shall be required only for 3608
construction of buildings with an area of five thousand square 3609
feet or greater. An energy consumption analysis for the term of a 3610

proposed lease shall be required only for the leasing of an area 3611
of twenty thousand square feet or greater within a given building 3612
boundary. That analysis shall be a primary consideration in the 3613
selection of a facility to be leased. 3614

Nothing in this section shall deprive or limit any state 3615
agency that has review authority over design, construction, or 3616
leasing plans from requiring a life-cycle cost analysis or energy 3617
consumption analysis. 3618

(D) For the purposes of assisting the ~~department~~ commission 3619
in its responsibility for state-funded facilities pursuant to 3620
section ~~123.01~~ 123.21 of the Revised Code and of cost-effectively 3621
reducing the energy consumption of those and any other 3622
state-funded facilities, thereby promoting fiscal, economic, and 3623
environmental benefits to this state, the ~~office~~ commission shall 3624
promulgate rules specifying cost-effective, energy efficiency and 3625
conservation standards that may govern the lease, design, 3626
construction, operation, and maintenance of all state-funded 3627
facilities, except facilities of state institutions of higher 3628
education or facilities operated by a political subdivision. The 3629
office of energy efficiency in the department of development shall 3630
cooperate in providing information and technical expertise to the 3631
office of energy services to ensure promulgation of rules of 3632
maximum effectiveness. The standards prescribed by rules 3633
promulgated under this division may draw from or incorporate, by 3634
reference or otherwise and in whole or in part, standards already 3635
developed or implemented by any competent, public or private 3636
standards organization or program. The rules also may include any 3637
of the following: 3638

(1) Specifications for a life-cycle cost analysis that shall 3639
determine, for the economic life of such state-funded facility, 3640
the reasonably expected costs of facility ownership, operation, 3641
and maintenance including labor and materials. Life-cycle cost may 3642

be expressed as an annual cost for each year of the facility's use. 3643
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A life-cycle cost analysis additionally may include an energy consumption analysis that conforms to division (D)(2) of this section. 3645
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(2) Specifications for an energy consumption analysis of the facility's heating, refrigeration, ventilation, cooling, lighting, hot water, and other major energy consuming systems, components, and equipment. 3648
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A life-cycle cost analysis and energy consumption analysis shall be based on the best currently available methods of analysis, such as those of the national institute of standards and technology, the United States department of energy or other federal agencies, professional societies, and directions developed by the department. 3652
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(3) Specifications for energy performance indices, to be used to audit and evaluate competing design proposals submitted to the state. 3658
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(4) A requirement that, not later than two years after April 6, 2007, each state-funded facility, except a facility of a state institution of higher education or a facility operated by a political subdivision, is managed by at least one building operator certified under the building operator certification program or any equivalent program or standards as shall be prescribed in the rules and considered reasonably equivalent. 3661
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(5) An application process by which a manager of a specified state-funded facility, except a facility of a state institution of higher education or a facility operated by a political subdivision, may apply for a waiver of compliance with any provision of the rules required by divisions (D)(1) to (4) of this section. 3668
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~~(E) The office of energy services shall promulgate rules to ensure that energy efficiency and conservation will be considered in the purchase of products and equipment, except motor vehicles, by any state agency, department, division, bureau, office, unit, board, commission, authority, quasi governmental entity, or institution. Minimum energy efficiency standards for purchased products and equipment may be required, based on federal testing and labeling where available or on standards developed by the office. The rules shall apply to the competitive selection of energy consuming systems, components, and equipment under Chapter 125. of the Revised Code where possible.~~

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

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

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

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

~~(4) Monitoring experience with and the cost effectiveness of this state's purchase and use of motor vehicles and of major energy consuming systems, components, equipment, and products having a significant impact on energy consumption by government;~~

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

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

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

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

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

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

~~(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~~

~~(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.~~

~~As used in division (F)(2) of this section, "acquired" means~~ 3736
~~leased for a period of sixty continuous days or more, or~~ 3737
~~purchased.~~ 3738

~~(G)~~(E) Each state agency, department, division, bureau, 3739
office, unit, board, commission, authority, quasi-governmental 3740
entity, institution, and state institution of higher education 3741
shall comply with any applicable provision of this section or of a 3742
rule promulgated pursuant to division (D) ~~or (F)~~ of this section. 3743

Sec. 123.23. (A) As used in this section, "public exigency" 3744
means an injury or obstruction that occurs in any public works of 3745
the state that materially impairs its immediate use or places in 3746
jeopardy property adjacent to it; an immediate danger of such an 3747
injury or obstruction; or an injury or obstruction, or an 3748
immediate danger of an injury or obstruction, that occurs during 3749
the process of construction of any public works and that 3750
materially impairs its immediate use or places in jeopardy 3751
property adjacent to it. 3752

(B) When a declaration of a public exigency is issued 3753
pursuant to division (C) of this section, the executive director 3754
of the Ohio facilities construction commission may enter into 3755
contracts with proper persons for the performance of labor, the 3756
furnishing of materials, or the construction of any structures and 3757
buildings necessary to the maintenance, control, and management of 3758
the public works of the state or any part of those public works. 3759
Any contracts awarded for the work performed pursuant to the 3760
declaration of a public exigency may be awarded without 3761
competitive bidding or selection as otherwise required by Chapter 3762
153. of the Revised Code. 3763

(C) The executive director of the commission may issue a 3764
declaration of a public exigency on the executive director's own 3765
initiative, or upon the request of the director of any state 3766

agency, university, or instrumentality. The executive director's 3767
declaration shall identify the specific injury, obstruction, or 3768
danger that is the subject of the declaration and shall set forth 3769
a dollar limitation for the repair, removal, or prevention of that 3770
exigency under the declaration. 3771

Before any project to repair, remove, or prevent a public 3772
exigency under the executive director's declaration may begin, the 3773
executive director shall send notice of the project, in writing, 3774
to the director of budget and management and to the members of the 3775
controlling board. The notice shall detail the project to be 3776
undertaken to address the public exigency and shall include a copy 3777
of the director's declaration that establishes the monetary 3778
limitations on that project. 3779

Sec. ~~123.17~~ 123.24. (A) As used in this section, "institution 3780
of higher education" means a state university or college, as 3781
defined in section 3345.12 of the Revised Code, or a state 3782
community college. 3783

(B) ~~Not later than December 30, 2005, the state architect~~ The 3784
Ohio facilities construction commission shall establish a local 3785
administration competency certification program to certify 3786
institutions of higher education to administer capital facilities 3787
projects pursuant to section 3345.51 of the Revised Code without 3788
the supervision, control, or approval of the ~~department of~~ 3789
~~administrative services~~ commission. The program shall offer 3790
instruction in the administration of capital facilities projects 3791
for employees of institutions of higher education who are 3792
responsible for such administration and who are selected by their 3793
employing institutions to participate in the program. 3794

(C) The program shall provide instruction about the 3795
provisions of Chapters 9., 123., and 153. of the Revised Code and 3796
any rules or policies adopted by the ~~department~~ commission 3797

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| regarding the planning, design, and construction of capital facilities, including all of the following: | 3798 |
| | 3799 |
| (1) The planning, design, and construction process; | 3800 |
| (2) Contract requirements; | 3801 |
| (3) Construction management; | 3802 |
| (4) Project management. | 3803 |
| (D) The state architect <u>commission</u> shall award local administration competency certification to any institution of higher education if all of the following apply: | 3804 |
| | 3805 |
| | 3806 |
| (1) The institution applied for certification on a form and in a manner prescribed by the state architect <u>commission</u> . | 3807 |
| | 3808 |
| (2) The state architect <u>commission</u> determines that a sufficient number of the institution's employees, representing a sufficient number of employee classifications, responsible for the administration of capital facilities projects have successfully completed the certification program to ensure that any capital facilities project undertaken by the institution will be administered successfully and in accordance with all provisions of the Revised Code, and the board of trustees of the institution provides written assurance to the state architect <u>commission</u> that the institution will select new employees to participate in the certification program as necessary to compensate for employee turnover. | 3809 |
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| (3) The state architect <u>commission</u> determines that the employees of the institution enrolled in the program demonstrate successful completion of the competency certification training and a satisfactory level of knowledge of and competency in the requirements for administering capital facilities projects. | 3821 |
| | 3822 |
| | 3823 |
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| | 3825 |
| (4) The institution pays the fee prescribed by division (F) of this section. | 3826 |
| | 3827 |

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

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

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

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

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

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

(F) The ~~state-architect~~ commission shall establish, subject to the approval of the director of budget and management, the amount of the fee required to be paid by any institution of higher education that seeks certification under this section. The amount

of the fees shall be set to cover the costs to implement this 3859
section, including the costs for materials and the competency 3860
certification training sessions. Any fees received under this 3861
section shall be paid into the state treasury to the credit of the 3862
~~state architect's~~ commission's fund established under section 3863
~~123.10~~ 123.201 of the Revised Code. 3864

(G) Nothing in this section shall prohibit an institution 3865
that administers a capital facilities project under section 3866
3345.51 of the Revised Code from requesting guidance or other 3867
services from the ~~department of administrative services~~ 3868
commission. 3869

Sec. 123.26. (A) The executive director of the Ohio 3870
facilities construction commission shall regulate the rate of 3871
tolls to be collected on the construction or improvement of the 3872
public works of the state, and shall fix all rentals and collect 3873
all tolls, rents, fines, commissions, fees, and other revenues 3874
arising from any source in the construction or improvement of the 3875
public works of the state. 3876

(B) Deposits made to the commission's fund in the state 3877
treasury under section 123.201 of the Revised Code shall consist 3878
of money received by the commission under division (A) of this 3879
section, fees paid under section 123.24 of the Revised Code, 3880
transfers of money to the fund authorized by the general assembly, 3881
and such amount of the investment earnings of the administrative 3882
building fund created in division (F) of section 154.24 of the 3883
Revised Code as the director of budget and management determines 3884
to be appropriate and in excess of the amounts required to meet 3885
estimated federal arbitrage rebate requirements. Money in the fund 3886
shall be used by the commission for the following purposes: 3887

(1) To pay personnel and other administrative expenses of the 3888
commission; 3889

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| <u>(2) To pay the cost of conducting evaluations of public</u> | 3890 |
| <u>works;</u> | 3891 |
| <u>(3) To pay the cost of building design specifications;</u> | 3892 |
| <u>(4) To pay the cost of providing project management services;</u> | 3893 |
| <u>(5) To pay the cost of operating the local administration</u> | 3894 |
| <u>competency certification program prescribed by section 123.24 of</u> | 3895 |
| <u>the Revised Code; and</u> | 3896 |
| <u>(6) Any other purposes that the executive director of the</u> | 3897 |
| <u>commission determines to be necessary for the commission to</u> | 3898 |
| <u>execute its duties under this chapter.</u> | 3899 |
| | |
| Sec. 123.101 123.27. (A) As used in this section: | 3900 |
| "Capital facilities project" means the construction, | 3901 |
| reconstruction, improvement, enlargement, alteration, or repair of | 3902 |
| a building by a public entity. | 3903 |
| "Public entity" includes a state agency and a state | 3904 |
| institution of higher education. | 3905 |
| "State institution of higher education" has the same meaning | 3906 |
| as in section 3345.011 of the Revised Code. | 3907 |
| (B) Commencing not later than July 1, 2012, and upon | 3908 |
| completion of a capital facilities project that is funded wholly | 3909 |
| or in part using state funds, each public entity shall submit a | 3910 |
| report about the project to the <u>executive</u> director of | 3911 |
| administrative services <u>the Ohio facilities construction</u> | 3912 |
| <u>commission</u> . The report shall be submitted in Ohio administrative | 3913 |
| knowledge system capital improvement format or in a manner | 3914 |
| determined by the <u>executive</u> director and not later than thirty | 3915 |
| days after the project is complete. The report shall provide the | 3916 |
| total original contract bid, total cost of change orders, total | 3917 |
| actual cost of the project, total costs incurred for mediation and | 3918 |
| litigation services, and any other data requested by the <u>executive</u> | 3919 |

director. The first report submitted pursuant to this division 3920
shall include information about any capital facilities project 3921
completed on or after July 1, 2011. Any capital facilities project 3922
that is funded wholly or in part through appropriations made to 3923
the Ohio school facilities commission, the Ohio public works 3924
commission, or the Ohio cultural facilities commission, or for 3925
which a joint use agreement has been entered into with any public 3926
entity, is exempt from the reporting requirement prescribed under 3927
this division. 3928

(C) Commencing not later than July 1, 2012, and annually 3929
thereafter, the attorney general shall report to the executive 3930
director of the Ohio facilities construction commission on any 3931
mediation and litigation costs associated with capital facilities 3932
projects for which a judgment has been rendered. The report shall 3933
be submitted in a manner prescribed by the executive director and 3934
shall contain any information requested by the executive director 3935
related to capital facilities project mediation and litigation 3936
costs. 3937

(D) As soon as practicable after such information is made 3938
available, the executive director of ~~administrative services~~ the 3939
Ohio facilities construction commission shall incorporate the 3940
information reported pursuant to divisions (B) and (C) of this 3941
section into the Ohio administrative knowledge system. 3942

Sec. 124.04. In addition to those powers enumerated in 3943
Chapters 123. and 125. of the Revised Code and as provided 3944
elsewhere by law, the powers, duties, and functions of the 3945
department of administrative services not specifically vested in 3946
and assigned to, or to be performed by, the state personnel board 3947
of review are hereby vested in and assigned to, and shall be 3948
performed by, the director of administrative services. These 3949
powers, duties, and functions shall include, but shall not be 3950

limited to, the following powers, duties, and functions: 3951

(A) To prepare, conduct, and grade all competitive 3952
examinations for positions in the classified ~~state~~ service of the 3953
state; 3954

(B) To prepare, conduct, and grade all noncompetitive 3955
examinations for positions in the classified ~~state~~ service of the 3956
state; 3957

(C) To prepare eligible lists containing the names of persons 3958
qualified for appointment to positions in the classified ~~state~~ 3959
service of the state; 3960

(D) To prepare or amend, in accordance with section 124.14 of 3961
the Revised Code, specifications descriptive of duties, 3962
responsibilities, requirements, and desirable qualifications of 3963
the various classifications of positions in the ~~state~~ service of 3964
the state; 3965

(E) To allocate and reallocate, upon the motion of the 3966
director or upon request of an appointing authority and in 3967
accordance with section 124.14 of the Revised Code, any position, 3968
office, or employment in the ~~state~~ service of the state to the 3969
appropriate classification on the basis of the duties, 3970
responsibilities, requirements, and qualifications of that 3971
position, office, or employment; 3972

(F) To develop and conduct personnel recruitment services and 3973
assist appointing authorities in recruiting qualified applicants 3974
for positions in the ~~state~~ service of the state; 3975

(G) To conduct research on specifications, classifications, 3976
and salaries of positions in the ~~state~~ service of the state; 3977

(H) To develop and conduct personnel training programs, 3978
including supervisory training programs and best practices plans, 3979
and to develop merit hiring processes, in cooperation with 3980

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| appointing authorities <u>for positions in the service of the state;</u> | 3981 |
| (I) To include periodically in communications sent to state employees both of the following: | 3982 |
| (1) Information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts under Chapter 2108. of the Revised Code; | 3983 |
| (2) Information about the liver or kidney donor and bone marrow donor leave granted under section 124.139 of the Revised Code. | 3984 |
| (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; | 3985 |
| (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; | 3986 |
| (L) To maintain a journal, which shall be open to public inspection, in which the director shall keep a record of the director's final decision pertaining to the classification or reclassification of positions in the classified civil service of the state and assignment or reassignment of employees in the classified civil service of the state to specific position classifications; | 3987 |
| (M) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any other state agency of this state as the director considers necessary; | 3988 |
| (N) To delegate any of the powers, functions, or duties | 3989 |
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granted or assigned to the director under this chapter to any 4011
political subdivision with the concurrence of the legislative 4012
authority of the political subdivision. 4013

(O) To administer a state equal employment opportunity 4014
program. 4015

Sec. 124.06. No person shall be appointed, removed, 4016
transferred, laid off, suspended, reinstated, promoted, or reduced 4017
as an officer or employee in the civil service, in any manner or 4018
by any means other than those prescribed in this chapter, and the 4019
rules of the director of administrative services for positions in 4020
the service of the state or the municipal or civil service 4021
township civil service commission within their respective 4022
jurisdictions. 4023

Sec. 124.11. The civil service of the state and the several 4024
counties, cities, civil service townships, city health districts, 4025
general health districts, and city school districts of the state 4026
shall be divided into the unclassified service and the classified 4027
service. 4028

(A) The unclassified service shall comprise the following 4029
positions, which shall not be included in the classified service, 4030
and which shall be exempt from all examinations required by this 4031
chapter: 4032

(1) All officers elected by popular vote or persons appointed 4033
to fill vacancies in those offices; 4034

(2) All election officers as defined in section 3501.01 of 4035
the Revised Code; 4036

(3)(a) The members of all boards and commissions, and heads 4037
of principal departments, boards, and commissions appointed by the 4038
governor or by and with the governor's consent; 4039

(b) The heads of all departments appointed by a board of county commissioners; 4040
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(c) The members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district; 4042
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Except as otherwise provided in division (A)(17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service. 4046
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(4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors; 4050
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(5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties; 4053
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(6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department; 4056
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(7)(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities; 4059
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(b) The library staff of any library in the state supported wholly or in part at public expense. 4066
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(8) Four clerical and administrative support employees for each of the elective state officers, four clerical and 4068
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administrative support employees for each board of county 4070
commissioners and one such employee for each county commissioner, 4071
and four clerical and administrative support employees for other 4072
elective officers and each of the principal appointive executive 4073
officers, boards, or commissions, except for civil service 4074
commissions, that are authorized to appoint such clerical and 4075
administrative support employees; 4076

(9) The deputies and assistants of state agencies authorized 4077
to act for and on behalf of the agency, or holding a fiduciary or 4078
administrative relation to that agency and those persons employed 4079
by and directly responsible to elected county officials or a 4080
county administrator and holding a fiduciary or administrative 4081
relationship to such elected county officials or county 4082
administrator, and the employees of such county officials whose 4083
fitness would be impracticable to determine by competitive 4084
examination, provided that division (A)(9) of this section shall 4085
not affect those persons in county employment in the classified 4086
service as of September 19, 1961. Nothing in division (A)(9) of 4087
this section applies to any position in a county department of job 4088
and family services created pursuant to Chapter 329. of the 4089
Revised Code. 4090

(10) Bailiffs, constables, official stenographers, and 4091
commissioners of courts of record, deputies of clerks of the 4092
courts of common pleas who supervise or who handle public moneys 4093
or secured documents, and such officers and employees of courts of 4094
record and such deputies of clerks of the courts of common pleas 4095
as the ~~director of administrative services~~ appointing authority 4096
finds it impracticable to determine their fitness by competitive 4097
examination; 4098

(11) Assistants to the attorney general, special counsel 4099
appointed or employed by the attorney general, assistants to 4100
county prosecuting attorneys, and assistants to city directors of 4101

law; 4102

(12) Such teachers and employees in the agricultural 4103
experiment stations; such students in normal schools, colleges, 4104
and universities of the state who are employed by the state or a 4105
political subdivision of the state in student or intern 4106
classifications; and such unskilled labor positions as the 4107
director of administrative services, with respect to positions in 4108
the service of the state, or any municipal civil service 4109
commission may find it impracticable to include in the competitive 4110
classified service; provided such exemptions shall be by order of 4111
the commission or the director, duly entered on the record of the 4112
commission or the director with the reasons for each such 4113
exemption; 4114

(13) Any physician or dentist who is a full-time employee of 4115
the department of mental health, the department of developmental 4116
disabilities, or an institution under the jurisdiction of either 4117
department; and physicians who are in residency programs at the 4118
institutions; 4119

(14) Up to twenty positions at each institution under the 4120
jurisdiction of the department of mental health or the department 4121
of developmental disabilities that the department director 4122
determines to be primarily administrative or managerial; and up to 4123
fifteen positions in any division of either department, excluding 4124
administrative assistants to the director and division chiefs, 4125
which are within the immediate staff of a division chief and which 4126
the director determines to be primarily and distinctively 4127
administrative and managerial; 4128

(15) Noncitizens of the United States employed by the state, 4129
or its counties or cities, as physicians or nurses who are duly 4130
licensed to practice their respective professions under the laws 4131
of this state, or medical assistants, in mental or chronic disease 4132
hospitals, or institutions; 4133

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| (16) Employees of the governor's office; | 4134 |
| (17) Fire chiefs and chiefs of police in civil service | 4135 |
| townships appointed by boards of township trustees under section | 4136 |
| 505.38 or 505.49 of the Revised Code; | 4137 |
| (18) Executive directors, deputy directors, and program | 4138 |
| directors employed by boards of alcohol, drug addiction, and | 4139 |
| mental health services under Chapter 340. of the Revised Code, and | 4140 |
| secretaries of the executive directors, deputy directors, and | 4141 |
| program directors; | 4142 |
| (19) Superintendents, and management employees as defined in | 4143 |
| section 5126.20 of the Revised Code, of county boards of | 4144 |
| developmental disabilities; | 4145 |
| (20) Physicians, nurses, and other employees of a county | 4146 |
| hospital who are appointed pursuant to sections 339.03 and 339.06 | 4147 |
| of the Revised Code; | 4148 |
| (21) The executive director of the state medical board, who | 4149 |
| is appointed pursuant to division (B) of section 4731.05 of the | 4150 |
| Revised Code; | 4151 |
| (22) County directors of job and family services as provided | 4152 |
| in section 329.02 of the Revised Code and administrators appointed | 4153 |
| under section 329.021 of the Revised Code; | 4154 |
| (23) A director of economic development who is hired pursuant | 4155 |
| to division (A) of section 307.07 of the Revised Code; | 4156 |
| (24) Chiefs of construction and compliance, of operations and | 4157 |
| maintenance, of worker protection, and of licensing and | 4158 |
| certification in the division of labor <u>industrial compliance</u> in | 4159 |
| the department of commerce; | 4160 |
| (25) The executive director of a county transit system | 4161 |
| appointed under division (A) of section 306.04 of the Revised | 4162 |
| Code; | 4163 |

(26) Up to five positions at each of the administrative 4164
departments listed in section 121.02 of the Revised Code and at 4165
the department of taxation, department of the adjutant general, 4166
department of education, Ohio board of regents, bureau of workers' 4167
compensation, industrial commission, state lottery commission, and 4168
public utilities commission of Ohio that the head of that 4169
administrative department or of that other state agency determines 4170
to be involved in policy development and implementation. The head 4171
of the administrative department or other state agency shall set 4172
the compensation for employees in these positions at a rate that 4173
is not less than the minimum compensation specified in pay range 4174
41 but not more than the maximum compensation specified in pay 4175
range 44 of salary schedule E-2 in section 124.152 of the Revised 4176
Code. The authority to establish positions in the unclassified 4177
service under division (A)(26) of this section is in addition to 4178
and does not limit any other authority that an administrative 4179
department or state agency has under the Revised Code to establish 4180
positions, appoint employees, or set compensation. 4181

(27) Employees of the department of agriculture employed 4182
under section 901.09 of the Revised Code; 4183

(28) For cities, counties, civil service townships, city 4184
health districts, general health districts, and city school 4185
districts, the deputies and assistants of elective or principal 4186
executive officers authorized to act for and in the place of their 4187
principals or holding a fiduciary relation to their principals; 4188

(29) Employees who receive intermittent or temporary 4189
appointments under division (B) of section 124.30 of the Revised 4190
Code; 4191

(30) Employees appointed to administrative staff positions 4192
for which an appointing authority is given specific statutory 4193
authority to set compensation; 4194

(31) Employees appointed to highway patrol cadet or highway patrol cadet candidate classifications; 4195
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(32) Employees placed in the unclassified service by another section of the Revised Code. 4197
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(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts of the state, not specifically included in the unclassified service. 4199
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Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or (C) of this section, all persons in the employ of a civil service township police or fire department having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor class. 4203
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(1) The competitive class shall include all positions and employments in the state and the counties, cities, city health districts, general health districts, and city school districts of the state, and, upon the creation by the board of trustees of a civil service township of a township civil service commission, all positions in a civil service township police or fire department having ten or more full-time paid employees, for which it is practicable to determine the merit and fitness of applicants by competitive examinations. Appointments shall be made to, or employment shall be given in, all positions in the competitive class that are not filled by promotion, reinstatement, transfer, or reduction, as provided in this chapter, and the rules of the director of administrative services, by appointment from those certified to the appointing officer in accordance with this chapter. 4211
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(2) The unskilled labor class shall include ordinary 4226

unskilled laborers. Vacancies in the labor class for positions in 4227
service of the state shall be filled by appointment from lists of 4228
applicants registered by the director or the director's designee. 4229
Vacancies in the labor class for all other positions shall be 4230
filled by appointment from lists of applicants registered by a 4231
commission. The director or the commission, as applicable, by 4232
rule, shall require an applicant for registration in the labor 4233
class to furnish evidence or take tests as the director or 4234
commission considers proper with respect to age, residence, 4235
physical condition, ability to labor, honesty, sobriety, industry, 4236
capacity, and experience in the work or employment for which 4237
application is made. Laborers who fulfill the requirements shall 4238
be placed on the eligible list for the kind of labor or employment 4239
sought, and preference shall be given in employment in accordance 4240
with the rating received from that evidence or in those tests. 4241
Upon the request of an appointing officer, stating the kind of 4242
labor needed, the pay and probable length of employment, and the 4243
number to be employed, the director or commission, as applicable, 4244
shall certify from the highest on the list double the number to be 4245
employed; from this number, the appointing officer shall appoint 4246
the number actually needed for the particular work. If more than 4247
one applicant receives the same rating, priority in time of 4248
application shall determine the order in which their names shall 4249
be certified for appointment. 4250

(C) A municipal or civil service township civil service 4251
commission may place volunteer firefighters who are paid on a 4252
fee-for-service basis in either the classified or the unclassified 4253
civil service. 4254

(D)(1) This division does not apply to persons in the 4255
unclassified service who have the right to resume positions in the 4256
classified service under sections 4121.121, 5119.071, 5120.38, 4257
5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised 4258

Code. 4259

~~An appointing authority whose employees are paid directly by~~ 4260
~~warrant of the director of budget and management may appoint a~~ 4261
~~person who holds a certified position in the classified service~~ 4262
~~within the appointing authority's agency to a position in the~~ 4263
~~unclassified service within that agency. (2) A person appointed~~ 4264
~~pursuant to this division who holds a position in the classified~~ 4265
~~service and who is appointed to a position in the unclassified~~ 4266
~~service shall retain the right to resume the position and status~~ 4267
~~held by the person in the classified service immediately prior to~~ 4268
~~the person's appointment to the position in the unclassified~~ 4269
~~service, regardless of the number of positions the person held in~~ 4270
~~the unclassified service. An employee's right to resume a position~~ 4271
~~in the classified service may only be exercised when an appointing~~ 4272
~~authority demotes the employee to a pay range lower than the~~ 4273
~~employee's current pay range or revokes the employee's appointment~~ 4274
~~to the unclassified service- and:~~ 4275

(a) That person held a certified position prior to July 1, 4276
2007, in the classified service within the appointing authority's 4277
agency; or 4278

(b) That person held a permanent position on or after July 1, 4279
2007, in the classified service within the appointing authority's 4280
agency. 4281

(3) An employee forfeits the right to resume a position in 4282
the classified service when ~~the~~: 4283

(a) The employee is removed from the position in the 4284
unclassified service due to incompetence, inefficiency, 4285
dishonesty, drunkenness, immoral conduct, insubordination, 4286
discourteous treatment of the public, neglect of duty, violation 4287
of this chapter or the rules of the director of administrative 4288
services, any other failure of good behavior, any other acts of 4289

misfeasance, malfeasance, or nonfeasance in office, or conviction 4290
of a felony. ~~An employee also forfeits the right to resume a 4291
position in the classified service upon; or 4292~~

(b) Upon transfer to a different agency. 4293

(4) Reinstatement to a position in the classified service 4294
shall be to a position substantially equal to that position in the 4295
classified service held previously, as certified by the director 4296
of administrative services. If the position the person previously 4297
held in the classified service has been placed in the unclassified 4298
service or is otherwise unavailable, the person shall be appointed 4299
to a position in the classified service within the appointing 4300
authority's agency that the director of administrative services 4301
certifies is comparable in compensation to the position the person 4302
previously held in the classified service. Service in the position 4303
in the unclassified service shall be counted as service in the 4304
position in the classified service held by the person immediately 4305
prior to the person's appointment to the position in the 4306
unclassified service. When a person is reinstated to a position in 4307
the classified service as provided in this division, the person is 4308
entitled to all rights, status, and benefits accruing to the 4309
position in the classified service during the person's time of 4310
service in the position in the unclassified service. 4311

Sec. 124.12. (A) Within ninety days after an appointing 4312
authority appoints an employee to an unclassified position in the 4313
service of the state, the appointing authority shall notify the 4314
department of administrative services of that appointment. 4315

(B) On the date an appointing authority appoints an employee 4316
to an unclassified position in the state service, the appointing 4317
authority shall provide the employee with written information 4318
describing the nature of employment in the unclassified civil 4319
service. Within thirty days after the date an appointing authority 4320

appoints an employee to an unclassified position in the state 4321
service, the appointing authority shall provide the employee with 4322
written information describing the duties of that position. 4323
Failure of the appointing authority to provide the written 4324
information described in this division to the employee does not 4325
confer any additional rights upon the employee in any appellate 4326
body with jurisdiction over an appeal of the employee. 4327

(C) The department shall develop and provide each appointing 4328
authority in the ~~state~~ service of the state with a general written 4329
description of the nature of employment in the unclassified civil 4330
service that shall be provided to employees under division (B) of 4331
this section. 4332

Sec. 124.14. (A)(1) The director of administrative services 4333
shall establish, and may modify or rescind, by rule, a job 4334
classification plan for all positions, offices, and employments 4335
the salaries of which are paid in whole or in part by the state. 4336
The director shall group jobs within a classification so that the 4337
positions are similar enough in duties and responsibilities to be 4338
described by the same title, to have the same pay assigned with 4339
equity, and to have the same qualifications for selection applied. 4340
The director shall, by rule, assign a classification title to each 4341
classification within the classification plan. However, the 4342
director shall consider in establishing classifications, including 4343
classifications with parenthetical titles, and assigning pay 4344
ranges such factors as duties performed only on one shift, special 4345
skills in short supply in the labor market, recruitment problems, 4346
separation rates, comparative salary rates, the amount of training 4347
required, and other conditions affecting employment. The director 4348
shall describe the duties and responsibilities of the class, 4349
establish the qualifications for being employed in each position 4350
in the class, and file with the secretary of state a copy of 4351
specifications for all of the classifications. The director shall 4352

file new, additional, or revised specifications with the secretary 4353
of state before they are used. 4354

The director shall, by rule, assign each classification, 4355
either on a statewide basis or in particular counties or state 4356
institutions, to a pay range established under section 124.15 or 4357
section 124.152 of the Revised Code. The director may assign a 4358
classification to a pay range on a temporary basis for a period of 4359
six months. The director may establish, by rule adopted under 4360
Chapter 119. of the Revised Code, experimental classification 4361
plans for some or all employees paid directly by warrant of the 4362
director of budget and management. The rule shall include 4363
specifications for each classification within the plan and shall 4364
specifically address compensation ranges, and methods for 4365
advancing within the ranges, for the classifications, which may be 4366
assigned to pay ranges other than the pay ranges established under 4367
section 124.15 or 124.152 of the Revised Code. 4368

(2) The director of administrative services may reassign to a 4369
proper classification those positions that have been assigned to 4370
an improper classification. If the compensation of an employee in 4371
such a reassigned position exceeds the maximum rate of pay for the 4372
employee's new classification, the employee shall be placed in pay 4373
step X and shall not receive an increase in compensation until the 4374
maximum rate of pay for that classification exceeds the employee's 4375
compensation. 4376

(3) The director may reassign an exempt employee, as defined 4377
in section 124.152 of the Revised Code, to a bargaining unit 4378
classification if the director determines that the bargaining unit 4379
classification is the proper classification for that employee. 4380
Notwithstanding Chapter 4117. of the Revised Code or instruments 4381
and contracts negotiated under it, these placements are at the 4382
director's discretion. 4383

(4) The director shall, by rule, assign related 4384

classifications, which form a career progression, to a 4385
classification series. The director shall, by rule, assign each 4386
classification in the classification plan a five-digit number, the 4387
first four digits of which shall denote the classification series 4388
to which the classification is assigned. When a career progression 4389
encompasses more than ten classifications, the director shall, by 4390
rule, identify the additional classifications belonging to a 4391
classification series. The additional classifications shall be 4392
part of the classification series, notwithstanding the fact that 4393
the first four digits of the number assigned to the additional 4394
classifications do not correspond to the first four digits of the 4395
numbers assigned to other classifications in the classification 4396
series. 4397

~~(5) The director may establish, modify, or rescind a 4398
classification plan for county agencies that elect not to use the 4399
services and facilities of a county personnel department. The 4400
director shall establish any such classification plan by means of 4401
rules adopted under Chapter 119. of the Revised Code. The rules 4402
shall include a methodology for the establishment of titles unique 4403
to county agencies, the use of state classification titles and 4404
classification specifications for common positions, the criteria 4405
for a county to meet in establishing its own classification plan, 4406
and the establishment of what constitutes a classification series 4407
for county agencies. The director may assess a county agency that 4408
chooses to use the classification plan a usage fee the director 4409
determines. All usage fees the department of administrative 4410
services receives shall be paid into the state treasury to the 4411
credit of the human resources fund created in section 124.07 of 4412
the Revised Code. 4413~~

(B) Division (A) of this section and sections 124.15 and 4414
124.152 of the Revised Code do not apply to the following persons, 4415
positions, offices, and employments: 4416

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| (1) Elected officials; | 4417 |
| (2) Legislative employees, employees of the legislative service commission, employees in the office of the governor, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, and employees of the supreme court; | 4418 4419 4420 4421 4422 4423 |
| (3) Employees of a county children services board that establishes compensation rates under section 5153.12 of the Revised Code; | 4424 4425 4426 |
| (4) Any position for which the authority to determine compensation is given by law to another individual or entity; | 4427 4428 |
| (5) Employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code. | 4429 4430 4431 4432 |
| (C) The director may employ a consulting agency to aid and assist the director in carrying out this section. | 4433 4434 |
| (D)(1) When the director proposes to modify a classification or the assignment of classes to appropriate pay ranges, the director shall send written notice of the proposed rule to the appointing authorities of the affected employees thirty days before a hearing on the proposed rule. The appointing authorities shall notify the affected employees regarding the proposed rule. The director also shall send those appointing authorities notice of any final rule that is adopted within ten days after adoption. | 4435 4436 4437 4438 4439 4440 4441 4442 |
| (2) When the director proposes to reclassify any employee so that the employee is adversely affected, the director shall give to the employee affected and to the employee's appointing authority a written notice setting forth the proposed new classification, pay range, and salary. Upon the request of any | 4443 4444 4445 4446 4447 |

classified employee in the service of the state who is not serving 4448
in a probationary period, the director shall perform a job audit 4449
to review the classification of the employee's position to 4450
determine whether the position is properly classified. The 4451
director shall give to the employee affected and to the employee's 4452
appointing authority a written notice of the director's 4453
determination whether or not to reclassify the position or to 4454
reassign the employee to another classification. An employee or 4455
appointing authority desiring a hearing shall file a written 4456
request for the hearing with the state personnel board of review 4457
within thirty days after receiving the notice. The board shall set 4458
the matter for a hearing and notify the employee and appointing 4459
authority of the time and place of the hearing. The employee, the 4460
appointing authority, or any authorized representative of the 4461
employee who wishes to submit facts for the consideration of the 4462
board shall be afforded reasonable opportunity to do so. After the 4463
hearing, the board shall consider anew the reclassification and 4464
may order the reclassification of the employee and require the 4465
director to assign the employee to such appropriate classification 4466
as the facts and evidence warrant. As provided in division (A)(1) 4467
of section 124.03 of the Revised Code, the board may determine the 4468
most appropriate classification for the position of any employee 4469
coming before the board, with or without a job audit. The board 4470
shall disallow any reclassification or reassignment classification 4471
of any employee when it finds that changes have been made in the 4472
duties and responsibilities of any particular employee for 4473
political, religious, or other unjust reasons. 4474

(E)(1) Employees of each county department of job and family 4475
services shall be paid a salary or wage established by the board 4476
of county commissioners. The provisions of section 124.18 of the 4477
Revised Code concerning the standard work week apply to employees 4478
of county departments of job and family services. A board of 4479
county commissioners may do either of the following: 4480

(a) Notwithstanding any other section of the Revised Code, 4481
supplement the sick leave, vacation leave, personal leave, and 4482
other benefits of any employee of the county department of job and 4483
family services of that county, if the employee is eligible for 4484
the supplement under a written policy providing for the 4485
supplement; 4486

(b) Notwithstanding any other section of the Revised Code, 4487
establish alternative schedules of sick leave, vacation leave, 4488
personal leave, or other benefits for employees not inconsistent 4489
with the provisions of a collective bargaining agreement covering 4490
the affected employees. 4491

(2) Division (E)(1) of this section does not apply to 4492
employees for whom the state employment relations board 4493
establishes appropriate bargaining units pursuant to section 4494
4117.06 of the Revised Code, except in either of the following 4495
situations: 4496

(a) The employees for whom the state employment relations 4497
board establishes appropriate bargaining units elect no 4498
representative in a board-conducted representation election. 4499

(b) After the state employment relations board establishes 4500
appropriate bargaining units for such employees, all employee 4501
organizations withdraw from a representation election. 4502

(F)(1) Notwithstanding any contrary provision of sections 4503
124.01 to 124.64 of the Revised Code, the board of trustees of 4504
each state university or college, as defined in section 3345.12 of 4505
the Revised Code, shall carry out all matters of governance 4506
involving the officers and employees of the university or college, 4507
including, but not limited to, the powers, duties, and functions 4508
of the department of administrative services and the director of 4509
administrative services specified in this chapter. Officers and 4510
employees of a state university or college shall have the right of 4511

appeal to the state personnel board of review as provided in this 4512
chapter. 4513

(2) Each board of trustees shall adopt rules under section 4514
111.15 of the Revised Code to carry out the matters of governance 4515
described in division (F)(1) of this section. Until the board of 4516
trustees adopts those rules, a state university or college shall 4517
continue to operate pursuant to the applicable rules adopted by 4518
the director of administrative services under this chapter. 4519

(G)(1) Each board of county commissioners may, by a 4520
resolution adopted by a majority of its members, establish a 4521
county personnel department to exercise the powers, duties, and 4522
functions specified in division (G) of this section. As used in 4523
division (G) of this section, "county personnel department" means 4524
a county personnel department established by a board of county 4525
commissioners under division (G)(1) of this section. 4526

(2)(a) Each board of county commissioners, by a resolution 4527
adopted by a majority of its members, may designate the county 4528
personnel department of the county to exercise the powers, duties, 4529
and functions specified in sections 124.01 to 124.64 and Chapter 4530
325. of the Revised Code with regard to employees in the service 4531
of the county, except for the powers and duties of the state 4532
personnel board of review, which powers and duties shall not be 4533
construed as having been modified or diminished in any manner by 4534
division (G)(2) of this section, with respect to the employees for 4535
whom the board of county commissioners is the appointing authority 4536
or co-appointing authority. 4537

(b) Nothing in division (G)(2) of this section shall be 4538
construed to limit the right of any employee who possesses the 4539
right of appeal to the state personnel board of review to continue 4540
to possess that right of appeal. 4541

(c) Any board of county commissioners that has established a 4542

county personnel department may contract with the department of 4543
administrative services, in accordance with division (H) of this 4544
section, another political subdivision, or an appropriate public 4545
or private entity to provide competitive testing services or other 4546
appropriate services. 4547

(3) After the county personnel department of a county has 4548
been established as described in division (G)(2) of this section, 4549
any elected official, board, agency, or other appointing authority 4550
of that county, upon written notification to the county personnel 4551
department, may elect to use the services and facilities of the 4552
county personnel department. Upon receipt of the notification by 4553
the county personnel department, the county personnel department 4554
shall exercise the powers, duties, and functions as described in 4555
division (G)(2) of this section with respect to the employees of 4556
that elected official, board, agency, or other appointing 4557
authority. 4558

(4) Each board of county commissioners, by a resolution 4559
adopted by a majority of its members, may disband the county 4560
personnel department. 4561

(5) Any elected official, board, agency, or appointing 4562
authority of a county may end its involvement with a county 4563
personnel department upon actual receipt by the department of a 4564
certified copy of the notification that contains the decision to 4565
no longer participate. 4566

(6) ~~The director of administrative services may, by rule~~ 4567
~~adopted in accordance with Chapter 119. of the Revised Code,~~ 4568
~~prescribe criteria and procedures for the following:~~ 4569

~~(a) A requirement that each county personnel department, in~~ 4570
~~carrying out its duties, shall~~ adhere to merit system principles 4571
with regard to employees of county departments of job and family 4572
services, child support enforcement agencies, and public child 4573

welfare agencies so that there is no threatened loss of federal 4574
funding for these agencies, and ~~a requirement that the county be~~ 4575
~~is~~ financially liable to the state for any loss of federal funds 4576
due to the action or inaction of the county personnel department. 4577
~~The costs associated with audits conducted to monitor compliance~~ 4578
~~with division (G)(6)(a) of this section shall be reimbursed to the~~ 4579
~~department of administrative services as determined by the~~ 4580
~~director. All money the department receives for these audits shall~~ 4581
~~be paid into the state treasury to the credit of the human~~ 4582
~~resources fund created in section 124.07 of the Revised Code.~~ 4583

~~(b) Authorization for the director of administrative services~~ 4584
~~to conduct periodic audits and reviews of county personnel~~ 4585
~~departments to guarantee the uniform application of the powers,~~ 4586
~~duties, and functions exercised pursuant to division (G)(2)(a) of~~ 4587
~~this section. The costs of the audits and reviews shall be~~ 4588
~~reimbursed to the department of administrative services as~~ 4589
~~determined by the director by the county for which the services~~ 4590
~~are performed. All money the department receives shall be paid~~ 4591
~~into the state treasury to the credit of the human resources fund~~ 4592
~~created in section 124.07 of the Revised Code.~~ 4593

(H) County agencies may contract with the department of 4594
administrative services for any human resources services, 4595
including, but not limited to, establishment and modification of 4596
job classification plans, competitive testing services, and 4597
periodic audits and reviews to guarantee the county's uniform 4598
application of the powers, duties, and functions specified in 4599
sections 124.01 to 124.64 and Chapter 325. of the Revised Code 4600
with regard to employees in the service of the county. Nothing in 4601
this division modifies the powers and duties of the state 4602
personnel board of review with respect to employees in the service 4603
of the county. Nothing in this division limits the right of any 4604
employee who possesses the right of appeal to the state personnel 4605

board of review to continue to possess that right of appeal. 4606

(I) The director of administrative services shall establish 4607
the rate and method of compensation for all employees who are paid 4608
directly by warrant of the director of budget and management and 4609
who are serving in positions that the director of administrative 4610
services has determined impracticable to include in the state job 4611
classification plan. This division does not apply to elected 4612
officials, legislative employees, employees of the legislative 4613
service commission, employees who are in the unclassified civil 4614
service and exempt from collective bargaining coverage in the 4615
office of the secretary of state, auditor of state, treasurer of 4616
state, and attorney general, employees of the courts, employees of 4617
the bureau of workers' compensation whose compensation the 4618
administrator of workers' compensation establishes under division 4619
(B) of section 4121.121 of the Revised Code, or employees of an 4620
appointing authority authorized by law to fix the compensation of 4621
those employees. 4622

~~(I)~~(J) The director of administrative services shall set the 4623
rate of compensation for all intermittent, seasonal, temporary, 4624
emergency, and casual employees in the service of the state who 4625
are not considered public employees under section 4117.01 of the 4626
Revised Code. Those employees are not entitled to receive employee 4627
benefits. This rate of compensation shall be equitable in terms of 4628
the rate of employees serving in the same or similar 4629
classifications. This division does not apply to elected 4630
officials, legislative employees, employees of the legislative 4631
service commission, employees who are in the unclassified civil 4632
service and exempt from collective bargaining coverage in the 4633
office of the secretary of state, auditor of state, treasurer of 4634
state, and attorney general, employees of the courts, employees of 4635
the bureau of workers' compensation whose compensation the 4636
administrator establishes under division (B) of section 4121.121 4637

of the Revised Code, or employees of an appointing authority 4638
authorized by law to fix the compensation of those employees. 4639

Sec. 124.231. (A) As used in this section, "legally blind 4640
person" means any person who qualifies as being blind under any 4641
Ohio or federal statute, or any rule adopted thereunder. As used 4642
in this section, "legally deaf person" means any person who 4643
qualifies as being deaf under any Ohio or federal statute, or any 4644
rule adopted thereunder. 4645

(B) When an examination is to be administered under sections 4646
124.01 to ~~124.64~~ 124.31 of the Revised Code, the director of 4647
administrative services or the director's designee shall whenever 4648
practicable arrange for special examinations to be administered to 4649
legally blind or legally deaf persons applying for positions in 4650
the classified service of the state to ensure that the abilities 4651
of such applicants are properly assessed and that such applicants 4652
are not subject to discrimination because they are legally blind 4653
or legally deaf persons. 4654

Sec. 124.241. As used in this section, "professional 4655
employee" has the same meaning as in section 5126.20 of the 4656
Revised Code and "registered service employee" means a service 4657
employee, as defined in section 5126.20 of the Revised Code, who 4658
is registered under section 5126.25 of the Revised Code. 4659

County boards of developmental disabilities may hire 4660
professional employees and registered service employees in the 4661
classified service on the basis of the candidates' qualifications 4662
rather than on the basis of the results of ~~an~~ a civil service 4663
examination ~~administered by the director of administrative~~ 4664
~~services pursuant to section 124.23 of the Revised Code.~~ 4665

Sec. 124.25. The director of administrative services shall 4666
require persons applying for an examination for original 4667

appointment in the service of the state to file with the director 4668
or the director's designee, within reasonable time prior to the 4669
examination, a formal application, in which the applicant shall 4670
state the applicant's name, address, and such other information as 4671
may reasonably be required concerning the applicant's education 4672
and experience. No inquiry shall be made as to religious or 4673
political affiliations or as to racial or ethnic origin of the 4674
applicant, except as necessary to gather equal employment 4675
opportunity or other statistics that, when compiled, will not 4676
identify any specific individual. 4677

Blank forms for applications shall be furnished by the 4678
director or the director's designee without charge to any person 4679
requesting the same. The director or the director's designee may 4680
require in connection with such application such certificate of 4681
persons having knowledge of the applicant as the good of the 4682
service demands. The director or the director's designee may 4683
refuse to appoint or examine an applicant, or, after an 4684
examination, refuse to certify the applicant as eligible, who is 4685
found to lack any of the established preliminary requirements for 4686
the examination, who is addicted to the habitual use of 4687
intoxicating liquors or drugs to excess, who has a pattern of poor 4688
work habits and performance with previous employers, who has been 4689
convicted of a felony, who has been guilty of infamous or 4690
notoriously disgraceful conduct, who has been dismissed from 4691
either branch of the civil service for delinquency or misconduct, 4692
or who has made false statements of any material fact, or 4693
practiced, or attempted to practice, any deception or fraud in the 4694
application or examination, in establishing eligibility, or 4695
securing an appointment. 4696

Sec. 124.26. From the returns of ~~the~~ examinations for 4697
positions in the service of the state, the director of 4698
administrative services or the director's designee shall prepare 4699

an eligible list of the persons whose general average standing 4700
upon examinations for the class or position is not less than the 4701
minimum fixed by the rules of the director, and who are otherwise 4702
eligible. Those persons shall take rank upon the eligible list as 4703
candidates in the order of their relative excellence as determined 4704
by the examination without reference to priority of the time of 4705
examination. If two or more applicants receive the same mark in an 4706
open competitive examination, priority in the time of filing the 4707
application with the director or the director's designee shall 4708
determine the order in which their names shall be placed on the 4709
eligible list, except that applicants eligible for veteran's 4710
preference under section 124.23 of the Revised Code shall receive 4711
priority in rank on the eligible list over nonveterans on the list 4712
with a rating equal to that of the veteran. Ties among veterans 4713
shall be decided by priority of filing the application. 4714

- An eligible list expires upon the filling or closing of the 4715
position. An expired eligible list may be used to fill a position 4716
of the same classification within the same appointing authority 4717
for which the list was created. But, in no event shall an expired 4718
list be used more than one year past its expiration date. 4719

Sec. 124.27. (A) Appointments to all positions in the 4720
classified civil service of the state, that are not filled by 4721
promotion, transfer, or reduction, as provided in sections 124.01 4722
to 124.64 of the Revised Code and the rules of the director 4723
prescribed under those sections, shall be made only from those 4724
persons whose names take rank order on an eligible list, and no 4725
employment, except as provided in those sections, shall be 4726
otherwise given in the classified civil service of this state ~~or~~ 4727
~~any political subdivision of the state~~. The appointing authority 4728
shall appoint in the following manner: each time a selection is 4729
made, it shall be from one of the names that ranks in the top 4730
twenty-five per cent of the eligible list. But, in the event that 4731

ten or fewer names are on the eligible list, the appointing 4732
authority may select any of the listed candidates, or if the top 4733
twenty-five per cent of the eligible list is ten or fewer names, 4734
the appointing authority may select from one of the names that 4735
rank in the top ten of the eligible list. Each person who 4736
qualifies for the veteran's preference under section 124.23 of the 4737
Revised Code, who is a resident of this state, and whose name is 4738
on the eligible list for a position is entitled to preference in 4739
original appointment to any such competitive position in the 4740
classified civil service of the state ~~and its civil divisions~~ over 4741
all other persons who are eligible for those appointments and who 4742
are standing on the relevant eligible list with a rating equal to 4743
that of the person qualifying for the veteran's preference. 4744

(B) All original and promotional appointments in the civil 4745
service of the state, including appointments made pursuant to 4746
section 124.30 of the Revised Code, but not intermittent 4747
appointments, shall be for a probationary period, not less than 4748
sixty days nor more than one year, to be fixed by the rules of the 4749
director, except as provided in section 124.231 of the Revised 4750
Code, and except for original appointments to a police department 4751
as a police officer or to a fire department as a firefighter which 4752
shall be for a probationary period of one year. No appointment or 4753
promotion is final until the appointee has satisfactorily served 4754
the probationary period. If the service of the probationary 4755
employee is unsatisfactory, the employee may be removed or reduced 4756
at any time during the probationary period. If the appointing 4757
authority decides to remove a probationary employee in the service 4758
of the state, the appointing authority shall communicate the 4759
removal to the director. A probationary employee duly removed or 4760
reduced in position for unsatisfactory service does not have the 4761
right to appeal the removal or reduction under section 124.34 of 4762
the Revised Code. 4763

Sec. 124.30. (A) ~~Positions~~ Classified positions in the 4764
classified civil service of the state may be filled without 4765
competition as follows: 4766

(1) Whenever there are urgent reasons for filling a vacancy 4767
in any position in the classified civil service of the state and 4768
the director of administrative services is unable to certify to 4769
the appointing authority, upon its request, a list of persons 4770
eligible for appointment to the position after a competitive 4771
examination, the appointing authority may fill the position by 4772
noncompetitive examination. 4773

A temporary appointment may be made without regard to the 4774
rules of sections 124.01 to 124.64 of the Revised Code. Except as 4775
otherwise provided in this division, the temporary appointment may 4776
not continue longer than one hundred twenty days, and in no case 4777
shall successive temporary appointments be made. A temporary 4778
appointment longer than one hundred twenty days may be made if 4779
necessary by reason of sickness, disability, or other approved 4780
leave of absence of regular officers or employees, in which case 4781
it may continue during the period of sickness, disability, or 4782
other approved leave of absence, subject to the rules of the 4783
director. 4784

(2) In case of a vacancy in a position in the classified 4785
civil service of the state where peculiar and exceptional 4786
qualifications of a scientific, managerial, professional, or 4787
educational character are required, and upon satisfactory evidence 4788
that for specified reasons competition in this special case is 4789
impracticable and that the position can best be filled by a 4790
selection of some designated person of high and recognized 4791
attainments in those qualities, the director may suspend the 4792
provisions of sections 124.01 to 124.64 of the Revised Code that 4793
require competition in this special case, but no suspension shall 4794

be general in its application. All such cases of suspension shall 4795
be reported in the annual report of the director with the reasons 4796
for each suspension. The director shall suspend the provisions 4797
when the director of job and family services provides the 4798
certification under section 5101.051 of the Revised Code that a 4799
position with the department of job and family services can best 4800
be filled if the provisions are suspended. 4801

(3) The acceptance or refusal by an eligible person of a 4802
temporary appointment shall not affect the person's standing on 4803
the eligible list for permanent appointment, nor shall the period 4804
of temporary service be counted as a part of the probationary 4805
service in case of subsequent appointment to a permanent position. 4806

(B) Persons who receive temporary or intermittent 4807
appointments are in the unclassified civil service and serve at 4808
the pleasure of their appointing authority. 4809

Sec. 124.31. Vacancies in positions in the classified civil 4810
service of the state shall be filled insofar as practicable by 4811
promotions. The director of administrative services shall provide 4812
in the director's rules for keeping a record of efficiency for 4813
each employee in the classified civil service of the state, and 4814
for making promotions in the classified civil service of the state 4815
on the basis of merit and by conduct and capacity in office. 4816

Sec. 125.05. Except as provided in division (F) of this 4817
section, no state agency shall purchase any supplies or services 4818
except as provided in divisions (A) to (D) of this section. 4819

(A) Subject to division (E) of this section, a state agency 4820
may, without competitive selection, make any purchase of supplies 4821
or services that cost twenty-five thousand dollars or less. The 4822
agency may make the purchase directly or may make the purchase 4823
from or through the department of administrative services, 4824

whichever the agency determines. The agency shall adopt written 4825
procedures consistent with the department's purchasing procedures 4826
and shall use those procedures when making purchases under this 4827
division. 4828

(B) Subject to division (E) of this section and in accordance 4829
with section 125.051 of the Revised Code, a state agency may make 4830
purchases of supplies and services that cost more than twenty-five 4831
thousand dollars but less than fifty thousand dollars if the 4832
purchases are made under the direction of an employee of the 4833
agency who is certified by the department to make purchases and if 4834
the purchases comply with the department's purchasing procedures. 4835
Section 127.16 of the Revised Code does not apply to purchases 4836
made under this division. Until the certification effective date 4837
established by the department in rules adopted under section 4838
125.051 of the Revised Code, state agencies may make purchases of 4839
supplies and services that cost more than twenty-five thousand 4840
dollars but less than fifty thousand dollars in the same manner as 4841
provided in division (A) of this section. 4842

(C) Subject to division (E) of this section, a state agency 4843
wanting to purchase supplies or services that cost more than 4844
twenty-five thousand dollars shall, unless otherwise authorized by 4845
law, make the purchase from or through the department. The 4846
department shall make the purchase by competitive selection. If 4847
the director of administrative services determines that it is not 4848
possible or not advantageous to the state for the department to 4849
make the purchase, the department shall grant the agency a release 4850
and permit under section 125.06 of the Revised Code to make the 4851
purchase. Section 127.16 of the Revised Code does not apply to 4852
purchases the department makes under this section. 4853

(D) An agency that has been granted a release and permit to 4854
make a purchase may make the purchase without competitive 4855
selection if after making the purchase the cumulative purchase 4856

threshold as computed under division (E) of section 127.16 of the Revised Code would:

(1) Be exceeded and the controlling board approves the purchase;

(2) Not be exceeded and the department of administrative services approves the purchase.

(E) Not later than the thirty-first day of January of each even-numbered year, the directors of administrative services and budget and management shall review and recommend to the general assembly, if necessary, adjustments to the amounts specified in divisions (A) to (C) of this section and division (B) of section 127.16 of the Revised Code.

(F) If ~~the eTech Ohio commission,~~ the department of education, or the Ohio education computer network determines that it can purchase software services or supplies for specified school districts at a price less than the price for which the districts could purchase the same software services or supplies for themselves, ~~the commission,~~ department, or network shall certify that fact to the department of administrative services and, acting as an agent for the specified school districts, shall make that purchase without following the provisions in divisions (A) to (D) of this section.

Sec. 125.082. (A) When purchasing equipment, materials, or supplies, the general assembly; the offices of all elected state officers; all departments, boards, offices, commissions, agencies, institutions, including, without limitation, state-supported institutions of higher education, and other instrumentalities of this state; the supreme court; all courts of appeals; and all courts of common pleas, may purchase recycled products in accordance with the guidelines adopted under division (B) of this section if the products are available and meet the performance

specifications of the procuring entities. Purchases of recycled products shall comply with any rules adopted under division (C) of this section.

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

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

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

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

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

(D) The department of administrative services and the ~~department of natural resources~~ environmental protection agency annually shall prepare and submit to the governor, president of the senate, and speaker of the house of representatives a report that describes, so far as practicable, the value and types of recycled products that are purchased with moneys disbursed from

the state treasury by the general assembly; the offices of all 4919
elected state officers; and all departments, boards, offices, 4920
commissions, agencies, and institutions of this state. 4921

Sec. 125.14. (A) The director of administrative services 4922
shall allocate any proceeds from the transfer, sale, or lease of 4923
excess and surplus supplies in the following manner: 4924

(1) Except as otherwise provided in division (A)(2) of this 4925
section, the proceeds of such a transfer, sale, or lease shall be 4926
paid into the state treasury to the credit of the investment 4927
recovery fund, which is hereby created. 4928

(2) Except as otherwise provided in division (A)(2) of this 4929
section, when supplies originally were purchased with funds from 4930
nongeneral revenue fund sources, the director shall determine what 4931
fund or account originally was used to purchase the supplies, and 4932
the credit for the proceeds from any transfer, sale, or lease of 4933
those supplies shall be transferred to that fund or account. If 4934
the director cannot determine which fund or account originally was 4935
used to purchase the supplies, if the fund or account is no longer 4936
active, or if the proceeds from the transfer, sale, or lease of a 4937
unit of supplies are less than one hundred dollars or any larger 4938
amount the director may establish with the approval of the 4939
director of budget and management, then the proceeds from the 4940
transfer, sale, or lease of such supplies shall be paid into the 4941
state treasury to the credit of the investment recovery fund. 4942

(B) The investment recovery fund shall be used to pay for the 4943
operating expenses of the state surplus property program. Any 4944
amounts in excess of these operating expenses shall periodically 4945
be transferred to the general revenue fund of the state. If 4946
proceeds paid into the investment recovery fund are insufficient 4947
to pay for the program's operating expenses, a service fee may be 4948
charged to state agencies to eliminate the deficit. 4949

(C) Proceeds from the sale of recyclable goods and materials 4950
shall be paid into the state treasury to the credit of the 4951
recycled materials fund, which is hereby created, except that the 4952
director of ~~natural resources~~ environmental protection, upon 4953
request, may grant an exemption from this requirement. The ~~chief~~ 4954
~~of the division of recycling and litter prevention in the~~ 4955
~~department of natural resources~~ director shall administer the fund 4956
for the benefit of recycling programs in state agencies. 4957

Sec. 126.14. The release of any money appropriated for the 4958
purchase of real estate shall be approved by the controlling 4959
board. The release of money appropriated for all other capital 4960
projects is also subject to the approval of the controlling board, 4961
except that the director of budget and management may approve the 4962
release of money appropriated for specific projects in accordance 4963
with the requirements of this section and except that the director 4964
of budget and management may approve the release of unencumbered 4965
capital balances, for a project to repair, remove, or prevent a 4966
public exigency declared to exist by the director of 4967
administrative services under section ~~123.15~~ 123.10 of the Revised 4968
Code, or by the executive director of the Ohio facilities 4969
construction commission under section 123.23 of the Revised Code, 4970
in the amount designated in that declaration. 4971

Within sixty days after the effective date of any act 4972
appropriating money for capital projects, the director shall 4973
determine which appropriations are for general projects and which 4974
are for specific projects. Specific projects may include specific 4975
higher education projects that are to be funded from general 4976
purpose appropriations from the higher education improvement fund 4977
created in section 154.21 of the Revised Code. Upon determining 4978
which projects are general and which are specific, the director 4979
shall submit to the controlling board a list that includes a brief 4980
description of and the estimated expenditures for each specific 4981

project. The release of money for any specific higher education 4982
projects that are to be funded from general purpose appropriations 4983
from the higher education improvement fund but that are not 4984
included on the list, and the release of money for any specific 4985
higher education projects included on the list that will exceed 4986
the estimated expenditures by more than ten per cent, are subject 4987
to the approval of the controlling board. The director may create 4988
new appropriation line items and make transfers of appropriations 4989
to them for specific higher education projects included on the 4990
list that are to be funded from general purpose appropriations for 4991
basic renovations that are made from the higher education 4992
improvement fund. 4993

Sec. 140.01. As used in this chapter: 4994

(A) "Hospital agency" means any public hospital agency or any 4995
nonprofit hospital agency. 4996

(B) "Public hospital agency" means any county, board of 4997
county hospital trustees established pursuant to section 339.02 of 4998
the Revised Code, county hospital commission established pursuant 4999
to section 339.14 of the Revised Code, municipal corporation, new 5000
community authority organized under Chapter 349. of the Revised 5001
Code, joint township hospital district, state or municipal 5002
university or college operating or authorized to operate a 5003
hospital facility, or the state. 5004

(C) "Nonprofit hospital agency" means a corporation or 5005
association not for profit, no part of the net earnings of which 5006
inures or may lawfully inure to the benefit of any private 5007
shareholder or individual, that has authority to own or operate a 5008
hospital facility or provides or is to provide services to one or 5009
more other hospital agencies. 5010

(D) "Governing body" means, in the case of a county, the 5011
board of county commissioners or other legislative body; in the 5012

case of a board of county hospital trustees, the board; in the 5013
case of a county hospital commission, the commission; in the case 5014
of a municipal corporation, the council or other legislative 5015
authority; in the case of a new community authority, its board of 5016
trustees; in the case of a joint township hospital district, the 5017
joint township district hospital board; in the case of a state or 5018
municipal university or college, its board of trustees or board of 5019
directors; in the case of a nonprofit hospital agency, the board 5020
of trustees or other body having general management of the agency; 5021
and, in the case of the state, the director of development or the 5022
Ohio higher educational facility commission. 5023

(E) "Hospital facilities" means buildings, structures and 5024
other improvements, additions thereto and extensions thereof, 5025
furnishings, equipment, and real estate and interests in real 5026
estate, used or to be used for or in connection with one or more 5027
hospitals, emergency, intensive, intermediate, extended, 5028
long-term, or self-care facilities, diagnostic and treatment and 5029
out-patient facilities, facilities related to programs for home 5030
health services, clinics, laboratories, public health centers, 5031
research facilities, and rehabilitation facilities, for or 5032
pertaining to diagnosis, treatment, care, or rehabilitation of 5033
sick, ill, injured, infirm, impaired, disabled, or handicapped 5034
persons, or the prevention, detection, and control of disease, and 5035
also includes education, training, and food service facilities for 5036
health professions personnel, housing facilities for such 5037
personnel and their families, and parking and service facilities 5038
in connection with any of the foregoing; and includes any one, 5039
part of, or any combination of the foregoing; and further includes 5040
site improvements, utilities, machinery, facilities, furnishings, 5041
and any separate or connected buildings, structures, improvements, 5042
sites, utilities, facilities, or equipment to be used in, or in 5043
connection with the operation or maintenance of, or supplementing 5044
or otherwise related to the services or facilities to be provided 5045

by, any one or more of such hospital facilities. 5046

(F) "Costs of hospital facilities" means the costs of 5047
acquiring hospital facilities or interests in hospital facilities, 5048
including membership interests in nonprofit hospital agencies, 5049
costs of constructing hospital facilities, costs of improving one 5050
or more hospital facilities, including reconstructing, 5051
rehabilitating, remodeling, renovating, and enlarging, costs of 5052
equipping and furnishing such facilities, and all financing costs 5053
pertaining thereto, including, without limitation thereto, costs 5054
of engineering, architectural, and other professional services, 5055
designs, plans, specifications and surveys, and estimates of cost, 5056
costs of tests and inspections, the costs of any indemnity or 5057
surety bonds and premiums on insurance, all related direct or 5058
allocable administrative expenses pertaining thereto, fees and 5059
expenses of trustees, depositories, and paying agents for the 5060
obligations, cost of issuance of the obligations and financing 5061
charges and fees and expenses of financial advisors, attorneys, 5062
accountants, consultants and rating services in connection 5063
therewith, capitalized interest on the obligations, amounts 5064
necessary to establish reserves as required by the bond 5065
proceedings, the reimbursement of all moneys advanced or applied 5066
by the hospital agency or others or borrowed from others for the 5067
payment of any item or items of costs of such facilities, and all 5068
other expenses necessary or incident to planning or determining 5069
feasibility or practicability with respect to such facilities, and 5070
such other expenses as may be necessary or incident to the 5071
acquisition, construction, reconstruction, rehabilitation, 5072
remodeling, renovation, enlargement, improvement, equipment, and 5073
furnishing of such facilities, the financing thereof, and the 5074
placing of the same in use and operation, including any one, part 5075
of, or combination of such classes of costs and expenses, and 5076
means the costs of refinancing obligations issued by, or 5077
reimbursement of money advanced by, nonprofit hospital agencies or 5078

others the proceeds of which were used for the payment of costs of 5079
hospital facilities, if the governing body of the public hospital 5080
agency determines that the refinancing or reimbursement advances 5081
the purposes of this chapter, whether or not the refinancing or 5082
reimbursement is in conjunction with the acquisition or 5083
construction of additional hospital facilities. 5084

(G) "Hospital receipts" means all moneys received by or on 5085
behalf of a hospital agency from or in connection with the 5086
ownership, operation, acquisition, construction, improvement, 5087
equipping, or financing of any hospital facilities, including, 5088
without limitation thereto, any rentals and other moneys received 5089
from the lease, sale, or other disposition of hospital facilities, 5090
and any gifts, grants, interest subsidies, or other moneys 5091
received under any federal program for assistance in financing the 5092
costs of hospital facilities, and any other gifts, grants, and 5093
donations, and receipts therefrom, available for financing the 5094
costs of hospital facilities. 5095

(H) "Obligations" means bonds, notes, or other evidences of 5096
indebtedness or obligation, including interest coupons pertaining 5097
thereto, issued or issuable by a public hospital agency to pay 5098
costs of hospital facilities. 5099

(I) "Bond service charges" means principal, interest, and 5100
call premium, if any, required to be paid on obligations. 5101

(J) "Bond proceedings" means one or more ordinances, 5102
resolutions, trust agreements, indentures, and other agreements or 5103
documents, and amendments and supplements to the foregoing, or any 5104
combination thereof, authorizing or providing for the terms, 5105
including any variable interest rates, and conditions applicable 5106
to, or providing for the security of, obligations and the 5107
provisions contained in such obligations. 5108

(K) "Nursing home" has the same meaning as in division (A)(1) 5109

of section 5701.13 of the Revised Code. 5110

(L) "Residential care facility" has the same meaning as in 5111
division (A)(2) of section 5701.13 of the Revised Code. 5112

(M) ~~"Adult care facility" has the same meaning as in division~~ 5113
~~(A)(3) of section 5701.13 of the Revised Code.~~ 5114

~~(N)~~ "Independent living facility" means any self-care 5115
facility or other housing facility designed or used as a residence 5116
for elderly persons. An "independent living facility" does not 5117
include a residential facility, or that part of a residential 5118
facility, that is any of the following: 5119

(1) A hospital required to be certified by section 3727.02 of 5120
the Revised Code; 5121

(2) A nursing home or residential care facility; 5122

(3) ~~An adult care facility;~~ 5123

~~(4)~~ A facility operated by a hospice care program licensed 5124
under section 3712.04 of the Revised Code and used for the 5125
program's hospice patients; 5126

(4) A residential facility licensed by the department of 5127
mental health under section 5119.22 of the Revised Code that 5128
provides accommodations, supervision, and personal care services 5129
for three to sixteen unrelated adults; 5130

(5) A residential facility ~~for the mentally ill~~ licensed by 5131
the department of mental health under section 5119.22 of the 5132
Revised Code that is not a residential facility described in 5133
division (M)(4) of this section; 5134

(6) A facility licensed to provide methadone treatment under 5135
section 3793.11 of the Revised Code; 5136

(7) A facility certified as an alcohol and drug addiction 5137
program under section 3793.06 of the Revised Code; 5138

(8) A residential facility licensed under section 5123.19 of 5139
the Revised Code or a facility providing services under a contract 5140
with the department of developmental disabilities under section 5141
5123.18 of the Revised Code; 5142

(9) A residential facility used as part of a hospital to 5143
provide housing for staff of the hospital or students pursuing a 5144
course of study at the hospital. 5145

Sec. 140.03. (A) Two or more hospital agencies may enter into 5146
agreements for the acquisition, construction, reconstruction, 5147
rehabilitation, remodeling, renovating, enlarging, equipping, and 5148
furnishing of hospital facilities, or the management, operation, 5149
occupancy, use, maintenance, and repair of hospital facilities, or 5150
for participation in programs, projects, activities, and services 5151
useful to, connected with, supplementing, or otherwise related to 5152
the services provided by, or the operation of, hospital facilities 5153
operated by one or more participating hospital agencies, including 5154
any combination of such purposes, all in such manner as to promote 5155
the public purpose stated in section 140.02 of the Revised Code. A 5156
city health district; general health district; board of alcohol, 5157
drug addiction, and mental health services; county board of 5158
developmental disabilities; the department of mental health; the 5159
department of developmental disabilities; or any public body 5160
engaged in the education or training of health professions 5161
personnel may join in any such agreement for purposes related to 5162
its authority under laws applicable to it, and as such a 5163
participant shall be considered a public hospital agency or 5164
hospital agency for the purposes of this section. 5165

(B) An agreement entered into under authority of this section 5166
shall, where appropriate, provide for: 5167

(1) The manner in which the title to the hospital facilities, 5168
including the sites and interest in real estate pertaining 5169

thereto, is to be held, transferred, or disposed of; 5170

(2) Unless provided for by lease pursuant to section 140.05 5171
of the Revised Code, the method by which such hospital facilities 5172
are to be acquired, constructed, or otherwise improved and by 5173
which they shall be managed, occupied, maintained, and repaired, 5174
including the designation of one of the hospital agencies to have 5175
charge of the details of acquisition, construction, or improvement 5176
pursuant to the contracting procedures prescribed under the law 5177
applicable to one of the participating public hospital agencies; 5178

(3) The management or administration of any such programs, 5179
projects, activities, or services, which may include management or 5180
administration by one of said hospital agencies or a board or 5181
agency thereof; 5182

(4) Annual, or more frequent, reports to the participating 5183
hospital agencies as to the revenues and receipts pertaining to 5184
the subject of the agreement, the expenditures thereof, the status 5185
and application of other funds contributed under such agreement, 5186
and such other matters as may be specified by or pursuant to such 5187
agreement; 5188

(5) The manner of apportionment or sharing of costs of 5189
hospital facilities, any other applicable costs of management, 5190
operation, maintenance, and repair of hospital facilities, and 5191
costs for the programs, projects, activities, and services forming 5192
the subject of the agreement, which apportionment or sharing may 5193
be prescribed in fixed amounts, or determined by ratios, formulas, 5194
or otherwise, and paid as service charges, rentals, or in such 5195
other manner as provided in the agreement, and may include amounts 5196
sufficient to meet the bond service charges and other payments and 5197
deposits required under the bond proceedings for obligations 5198
issued to pay costs of hospital facilities. A hospital agency may 5199
commit itself to make such payments at least for so long as any 5200
such obligations are outstanding. In the apportionment, different 5201

classes of costs or expenses may be apportioned to one or more, 5202
all or less than all, of the participating hospital agencies as 5203
determined under such agreement. 5204

(C) An agreement entered into under authority of this section 5205
may provide for: 5206

(1) An orderly process for making determinations or advising 5207
as to planning, execution, implementation, and operation, which 5208
may include designating one of the hospital agencies, or a board 5209
thereof, for any of such purposes, provisions for a committee, 5210
board, or commission, and for representation thereon, or as may 5211
otherwise be provided; 5212

(2) Securing necessary personnel, including participation of 5213
personnel from the respective hospital agencies; 5214

(3) Standards or conditions for the admission or 5215
participation of patients and physicians; 5216

(4) Conditions for admittance of other hospital agencies to 5217
participation under the agreement; 5218

(5) Fixing or establishing the method of determining charges 5219
to be made for particular services; 5220

(6) The manner of amending, supplementing, terminating, or 5221
withdrawal or removal of any party from, the agreement, and the 5222
term of the agreement, or an indefinite term; 5223

(7) Designation of the applicants for or recipients of any 5224
federal, state, or other aid, assistance, or loans available by 5225
reason of any activities conducted under the agreement; 5226

(8) Designation of one or more of the participating hospital 5227
agencies to maintain, prepare, and submit, on behalf of all 5228
parties to the agreement, any or all records and reports with 5229
regard to the activities conducted under the agreement; 5230

(9) Any incidental use of the hospital facilities, or 5231

services thereof, by participating public hospital agencies for 5232
any of their lawful purposes, which incidental use does not impair 5233
the character of the facilities as hospital facilities for any 5234
purpose of this chapter; 5235

(10) Such other matters as the parties thereto may agree upon 5236
for the purposes of division (A) of this section. 5237

(D) For the purpose of paying or contributing its share under 5238
an agreement made under this section, a public hospital agency 5239
may: 5240

(1) Expend any moneys from its general fund, and from any 5241
other funds not otherwise restricted by law, but including funds 5242
for permanent improvements of hospital facilities of such public 5243
hospital agency where the contribution is to be made toward the 5244
costs of hospital facilities under the agreement, and including 5245
funds derived from levies for, or receipts available for, 5246
operating expenses of hospital facilities or services of such 5247
public hospital agency where the contribution or payment is to be 5248
made toward operating expenses of the hospital facilities or 5249
services under the agreement or for the services provided thereby; 5250

(2) Issue obligations under Chapter 133. or section 140.06, 5251
339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 5252
3 of Article XVIII, Ohio Constitution, if applicable to such 5253
public hospital agency, to pay costs of hospital facilities, or 5254
issue obligations under any other provision of law authorizing 5255
such public hospital agency to issue obligations for any costs of 5256
hospital facilities; 5257

(3) Levy taxes under Chapter 5705. or section 513.13 or 5258
3709.29 of the Revised Code, if applicable to such public hospital 5259
agency, provided that the purpose of such levy may include the 5260
provision of funds for either or both permanent improvements and 5261
current expenses if required for the contribution or payment of 5262

such hospital agency under such agreement, and each such public 5263
hospital agency may issue notes in anticipation of any such levy, 5264
pursuant to the procedures provided in section 5705.191 of the 5265
Revised Code if the levy is solely for current expenses, and in 5266
section 5705.193 of the Revised Code if the levy is all or in part 5267
for permanent improvements; 5268

(4) Contribute real and personal property or interest therein 5269
without necessity for competitive bidding or public auction on 5270
disposition of such property. 5271

(E) Any funds provided by public hospital agencies that are 5272
parties to an agreement entered into under this section shall be 5273
transferred to and placed in a separate fund or funds of such 5274
participating public hospital agency as is designated under the 5275
agreement. The funds shall be applied for the purposes provided in 5276
such agreement and are subject to audit. Pursuant to any 5277
determinations to be made under such agreement, the funds shall be 5278
deposited, invested, and disbursed under the provisions of law 5279
applicable to the public hospital agency in whose custody the 5280
funds are held. This division is subject to the provisions of any 5281
applicable bond proceedings under section 133.08, 140.06, 339.15, 5282
or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio 5283
Constitution. The records and reports of such public hospital 5284
agency under Chapter 117. of the Revised Code and sections 3702.51 5285
to 3702.62 of the Revised Code, with respect to the funds shall be 5286
sufficient without necessity for reports thereon by the other 5287
public hospital agencies participating under such agreement. 5288

(F)(1) Prior to its entry into any such agreement, the public 5289
hospital agency must determine, and set forth in a resolution or 5290
ordinance, that the contribution to be made by it under such 5291
agreement will be fair consideration for value and benefit to be 5292
derived by it under such agreement and that the agreement will 5293
promote the public purpose stated in section 140.02 of the Revised 5294

Code. 5295

(2) If the agreement is with a board of county commissioners, 5296
board of county hospital trustees, or county hospital commission 5297
and is an initial agreement for the acquisition or operation of a 5298
county hospital operated by a board of county hospital trustees 5299
under section 339.06 of the Revised Code, the governing body of 5300
the public hospital agency shall submit the agreement, accompanied 5301
by the resolution or ordinance, to the board of county 5302
commissioners for review pursuant to section 339.091 of the 5303
Revised Code. The agreement may be entered into only if the board 5304
of county commissioners adopts a resolution under that section. 5305
The requirements of division (F)(2) of this section do not apply 5306
to the agreement if one or more hospitals classified as general 5307
hospitals by the ~~public director of health council~~ under section 5308
3701.07 of the Revised Code are operating in the same county as 5309
the county hospital. 5310

Sec. 140.05. (A)(1) A public hospital agency may lease any 5311
hospital facility to one or more hospital agencies for use as a 5312
hospital facility, or to one or more city or general health 5313
districts; boards of alcohol, drug addiction, and mental health 5314
services; county boards of developmental disabilities; the 5315
department of mental health; or the department of developmental 5316
disabilities, for uses which they are authorized to make thereof 5317
under the laws applicable to them, or any combination of them, and 5318
they may lease such facilities to or from a hospital agency for 5319
such uses, upon such terms and conditions as are agreed upon by 5320
the parties. Such lease may be for a term of fifty years or less 5321
and may provide for an option of the lessee to renew for a term of 5322
fifty years or less, as therein set forth. Prior to entering into 5323
such lease, the governing body of any public hospital agency 5324
granting such lease must determine, and set forth in a resolution 5325
or ordinance, that such lease will promote the public purpose 5326

stated in section 140.02 of the Revised Code and that the lessor 5327
public hospital agency will be duly benefited thereby. 5328

(2) If the lease is with a board of county commissioners, 5329
board of county hospital trustees, or county hospital commission 5330
and is an agreement for the initial lease of a county hospital 5331
operated by a board of county hospital trustees under section 5332
339.06 of the Revised Code, the governing body of the public 5333
hospital agency shall submit the agreement, accompanied by the 5334
resolution or ordinance, to the board of county commissioners for 5335
review pursuant to section 339.091 of the Revised Code. The 5336
agreement may be entered into only if the board of county 5337
commissioners adopts a resolution under that section. The 5338
requirements of division (A)(2) of this section do not apply to 5339
the lease if one or more hospitals classified as general hospitals 5340
by the ~~public director of health council~~ under section 3701.07 of 5341
the Revised Code are operating in the same county as the county 5342
hospital. 5343

(B) Any lease entered into pursuant to this section shall 5344
provide that in the event that the lessee fails faithfully and 5345
efficiently to administer, maintain, and operate such leased 5346
facilities as hospital facilities, or fails to provide the 5347
services thereof without regard to race, creed, color, or national 5348
origin, or fails to require that any hospital agency using such 5349
facilities or the services thereof shall not discriminate by 5350
reason of race, creed, color, or national origin, after an 5351
opportunity to be heard upon written charges, said lease may be 5352
terminated at the time, in the manner and with consequences 5353
therein provided. If any such lease does not contain terms to the 5354
effect provided in this division, it shall nevertheless be deemed 5355
to contain such terms which shall be implemented as determined by 5356
the governing body of the lessor. 5357

(C) Such lease may provide for rentals commencing at any time 5358

agreed upon, or advance rental, and continuing for such period 5359
therein provided, notwithstanding and without diminution, rebate, 5360
or setoff by reason of time of availability of the hospital 5361
facility for use, delays in construction, failure of completion, 5362
damage or destruction of the hospital facilities, or for any other 5363
reason. 5364

(D) Such lease may provide for the sale or transfer of title 5365
of the leased facilities pursuant to an option to purchase, 5366
lease-purchase, or installment purchase upon terms therein 5367
provided or to be determined as therein provided, which may 5368
include provision for the continued use thereof as a hospital 5369
facility for some reasonable period, taking into account efficient 5370
useful life and other factors, as is provided therein. 5371

(E) Such lease may be entered as part of or in connection 5372
with an agreement pursuant to section 140.03 of the Revised Code. 5373
Any hospital facilities which are the subject of an agreement 5374
entered into under section 140.03 of the Revised Code may be 5375
leased pursuant to this section. 5376

(F) If land acquired by a public hospital agency for a 5377
hospital facility is adjacent to an existing hospital facility 5378
owned by another hospital agency, the public hospital agency may, 5379
in connection with such acquisition or the leasing of such land 5380
and hospital facilities thereon to one or more hospital agencies, 5381
enter into an agreement with the hospital agency which owns such 5382
adjacent hospital facility for the use of common walls in the 5383
construction, operation, or maintenance of hospital facilities of 5384
the public hospital agency. For the purpose of construction, 5385
operation, or maintenance of hospital facilities, a public 5386
hospital agency may acquire by purchase, gift, lease, lease with 5387
option to purchase, lease-purchase, or installment purchase, 5388
easement deed, or other agreement, real estate and interests in 5389
real estate, including rights to use space over, under or upon 5390

real property owned by others, and support, access, common wall, 5391
and other rights in connection therewith. Any public hospital 5392
agency or other political subdivision or any public agency, board, 5393
commission, institution, body, or instrumentality may grant such 5394
real estate, interests, or rights to any hospital agency upon such 5395
terms as are agreed upon without necessity for competitive bidding 5396
or public auction. 5397

Sec. 140.08. (A) Except as otherwise provided in divisions 5398
(B)(1) and (2) of this section, all hospital facilities purchased, 5399
acquired, constructed, or owned by a public hospital agency, or 5400
financed in whole or in part by obligations issued by a public 5401
hospital agency, and used, or to be used when completed, as 5402
hospital facilities, and the income therefrom, are exempt from all 5403
taxation within this state, including ad valorem and excise taxes, 5404
notwithstanding any other provisions of law, and hospital agencies 5405
are exempt from taxes levied under Chapters 5739. and 5741. of the 5406
Revised Code. The obligations issued hereafter under section 5407
133.08, 140.06, or 339.15 of the Revised Code or Section 3 of 5408
Article XVIII, Ohio Constitution, to pay costs of hospital 5409
facilities or to refund such obligations, and the transfer 5410
thereof, and the interest and other income from such obligations, 5411
including any profit made on the sale thereof, is free from 5412
taxation within the state. 5413

(B)(1) Division (A) of this section does not exempt 5414
independent living facilities from taxes levied on property or 5415
taxes levied under Chapters 5739. and 5741. of the Revised Code. 5416
If an independent living facility or part of such facility becomes 5417
~~an adult care facility, nursing home, or residential care facility~~ 5418
on or after January 10, 1991, a nursing home, residential care 5419
facility, or residential facility described in division (M)(4) of 5420
section 140.01 of the Revised Code, that part of the independent 5421
living facility that is ~~an adult care facility,~~ a nursing home, ~~or~~ 5422

residential care facility, or residential facility described in 5423
division (M)(4) of section 140.01 of the Revised Code is exempt 5424
from taxation subject to division (B)(2) of this section on and 5425
after the date it becomes ~~an adult care facility~~, a nursing home, 5426
~~or residential care facility~~, or residential facility described in 5427
division (M)(4) of section 140.01 of the Revised Code. 5428

(2) Division (A) of this section exempts nursing homes, 5429
residential care facilities, and ~~adult care~~ residential facilities 5430
described in division (M)(4) of section 140.01 of the Revised Code 5431
from taxes levied on property and taxes levied under Chapters 5432
5739. and 5741. of the Revised Code only until all obligations 5433
issued to finance such homes or facilities, or all refunding or 5434
series of refundings of those obligations, are redeemed or 5435
otherwise retired. 5436

Sec. 145.01. As used in this chapter: 5437

(A) "Public employee" means: 5438

(1) Any person holding an office, not elective, under the 5439
state or any county, township, municipal corporation, park 5440
district, conservancy district, sanitary district, health 5441
district, metropolitan housing authority, state retirement board, 5442
Ohio historical society, public library, county law library, union 5443
cemetery, joint hospital, institutional commissary, state 5444
university, or board, bureau, commission, council, committee, 5445
authority, or administrative body as the same are, or have been, 5446
created by action of the general assembly or by the legislative 5447
authority of any of the units of local government named in 5448
division (A)(1) of this section, or employed and paid in whole or 5449
in part by the state or any of the authorities named in division 5450
(A)(1) of this section in any capacity not covered by section 5451
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 5452

(2) A person who is a member of the public employees 5453

retirement system and who continues to perform the same or similar 5454
duties under the direction of a contractor who has contracted to 5455
take over what before the date of the contract was a publicly 5456
operated function. The governmental unit with which the contract 5457
has been made shall be deemed the employer for the purposes of 5458
administering this chapter. 5459

(3) Any person who is an employee of a public employer, 5460
notwithstanding that the person's compensation for that employment 5461
is derived from funds of a person or entity other than the 5462
employer. Credit for such service shall be included as total 5463
service credit, provided that the employee makes the payments 5464
required by this chapter, and the employer makes the payments 5465
required by sections 145.48 and 145.51 of the Revised Code. 5466

(4) A person who elects in accordance with section 145.015 of 5467
the Revised Code to remain a contributing member of the public 5468
employees retirement system. 5469

(5) A person who is an employee of the legal rights service 5470
on September 30, 2012, and continues to be employed by the 5471
nonprofit entity established under Section 319.20 of Am. Sub. H.B. 5472
153 of the 129th general assembly. The nonprofit entity is the 5473
employer for the purpose of this chapter. 5474

In all cases of doubt, the public employees retirement board 5475
shall determine whether any person is a public employee, and its 5476
decision is final. 5477

(B) "Member" means any public employee, other than a public 5478
employee excluded or exempted from membership in the retirement 5479
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 5480
145.035, or 145.38 of the Revised Code. "Member" includes a PERS 5481
retirant who becomes a member under division (C) of section 145.38 5482
of the Revised Code. "Member" also includes a disability benefit 5483
recipient. 5484

(C) "Head of the department" means the elective or appointive 5485
head of the several executive, judicial, and administrative 5486
departments, institutions, boards, and commissions of the state 5487
and local government as the same are created and defined by the 5488
laws of this state or, in case of a charter government, by that 5489
charter. 5490

(D) "Employer" or "public employer" means the state or any 5491
county, township, municipal corporation, park district, 5492
conservancy district, sanitary district, health district, 5493
metropolitan housing authority, state retirement board, Ohio 5494
historical society, public library, county law library, union 5495
cemetery, joint hospital, institutional commissary, state medical 5496
university, state university, or board, bureau, commission, 5497
council, committee, authority, or administrative body as the same 5498
are, or have been, created by action of the general assembly or by 5499
the legislative authority of any of the units of local government 5500
named in this division not covered by section 742.01, 3307.01, 5501
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 5502
means the employer of any public employee. 5503

(E) "Prior service" means all service as a public employee 5504
rendered before January 1, 1935, and all service as an employee of 5505
any employer who comes within the state teachers retirement system 5506
or of the school employees retirement system or of any other 5507
retirement system established under the laws of this state 5508
rendered prior to January 1, 1935, provided that if the employee 5509
claiming the service was employed in any capacity covered by that 5510
other system after that other system was established, credit for 5511
the service may be allowed by the public employees retirement 5512
system only when the employee has made payment, to be computed on 5513
the salary earned from the date of appointment to the date 5514
membership was established in the public employees retirement 5515
system, at the rate in effect at the time of payment, and the 5516

employer has made payment of the corresponding full liability as 5517
provided by section 145.44 of the Revised Code. "Prior service" 5518
also means all service credited for active duty with the armed 5519
forces of the United States as provided in section 145.30 of the 5520
Revised Code. 5521

If an employee who has been granted prior service credit by 5522
the public employees retirement system for service rendered prior 5523
to January 1, 1935, as an employee of a board of education 5524
establishes, before retirement, one year or more of contributing 5525
service in the state teachers retirement system or school 5526
employees retirement system, then the prior service ceases to be 5527
the liability of this system. 5528

If the board determines that a position of any member in any 5529
calendar year prior to January 1, 1935, was a part-time position, 5530
the board shall determine what fractional part of a year's credit 5531
shall be allowed by the following formula: 5532

(1) When the member has been either elected or appointed to 5533
an office the term of which was two or more years and for which an 5534
annual salary is established, the fractional part of the year's 5535
credit shall be computed as follows: 5536

First, when the member's annual salary is one thousand 5537
dollars or less, the service credit for each such calendar year 5538
shall be forty per cent of a year. 5539

Second, for each full one hundred dollars of annual salary 5540
above one thousand dollars, the member's service credit for each 5541
such calendar year shall be increased by two and one-half per 5542
cent. 5543

(2) When the member is paid on a per diem basis, the service 5544
credit for any single year of the service shall be determined by 5545
using the number of days of service for which the compensation was 5546
received in any such year as a numerator and using two hundred 5547

fifty days as a denominator. 5548

(3) When the member is paid on an hourly basis, the service 5549
credit for any single year of the service shall be determined by 5550
using the number of hours of service for which the compensation 5551
was received in any such year as a numerator and using two 5552
thousand hours as a denominator. 5553

(F) "Contributor" means any person who has an account in the 5554
employees' savings fund created by section 145.23 of the Revised 5555
Code. When used in the sections listed in division (B) of section 5556
145.82 of the Revised Code, "contributor" includes any person 5557
participating in a PERS defined contribution plan. 5558

(G) "Beneficiary" or "beneficiaries" means the estate or a 5559
person or persons who, as the result of the death of a member, 5560
contributor, or retirant, qualify for or are receiving some right 5561
or benefit under this chapter. 5562

(H)(1) "Total service credit," except as provided in section 5563
145.37 of the Revised Code, means all service credited to a member 5564
of the retirement system since last becoming a member, including 5565
restored service credit as provided by section 145.31 of the 5566
Revised Code; credit purchased under sections 145.293 and 145.299 5567
of the Revised Code; all the member's prior service credit; all 5568
the member's military service credit computed as provided in this 5569
chapter; all service credit established pursuant to section 5570
145.297 of the Revised Code; and any other service credited under 5571
this chapter. In addition, "total service credit" includes any 5572
period, not in excess of three years, during which a member was 5573
out of service and receiving benefits under Chapters 4121. and 5574
4123. of the Revised Code. For the exclusive purpose of satisfying 5575
the service credit requirement and of determining eligibility for 5576
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 5577
and 145.361 of the Revised Code, "five or more years of total 5578
service credit" means sixty or more calendar months of 5579

contributing service in this system. 5580

(2) "One and one-half years of contributing service credit," 5581
as used in division (B) of section 145.45 of the Revised Code, 5582
also means eighteen or more calendar months of employment by a 5583
municipal corporation that formerly operated its own retirement 5584
plan for its employees or a part of its employees, provided that 5585
all employees of that municipal retirement plan who have eighteen 5586
or more months of such employment, upon establishing membership in 5587
the public employees retirement system, shall make a payment of 5588
the contributions they would have paid had they been members of 5589
this system for the eighteen months of employment preceding the 5590
date membership was established. When that payment has been made 5591
by all such employee members, a corresponding payment shall be 5592
paid into the employers' accumulation fund by that municipal 5593
corporation as the employer of the employees. 5594

(3) Where a member also is a member of the state teachers 5595
retirement system or the school employees retirement system, or 5596
both, except in cases of retirement on a combined basis pursuant 5597
to section 145.37 of the Revised Code or as provided in section 5598
145.383 of the Revised Code, service credit for any period shall 5599
be credited on the basis of the ratio that contributions to the 5600
public employees retirement system bear to total contributions in 5601
all state retirement systems. 5602

(4) Not more than one year of credit may be given for any 5603
period of twelve months. 5604

(5) "Ohio service credit" means credit for service that was 5605
rendered to the state or any of its political subdivisions or any 5606
employer. 5607

(I) "Regular interest" means interest at any rates for the 5608
respective funds and accounts as the public employees retirement 5609
board may determine from time to time. 5610

(J) "Accumulated contributions" means the sum of all amounts 5611
credited to a contributor's individual account in the employees' 5612
savings fund together with any interest credited to the 5613
contributor's account under section 145.471 or 145.472 of the 5614
Revised Code. 5615

(K)(1) "Final average salary" means the quotient obtained by 5616
dividing by three the sum of the three full calendar years of 5617
contributing service in which the member's earnable salary was 5618
highest, except that if the member has a partial year of 5619
contributing service in the year the member's employment 5620
terminates and the member's earnable salary for the partial year 5621
is higher than for any comparable period in the three years, the 5622
member's earnable salary for the partial year shall be substituted 5623
for the member's earnable salary for the comparable period during 5624
the three years in which the member's earnable salary was lowest. 5625

(2) If a member has less than three years of contributing 5626
service, the member's final average salary shall be the member's 5627
total earnable salary divided by the total number of years, 5628
including any fraction of a year, of the member's contributing 5629
service. 5630

(3) For the purpose of calculating benefits payable to a 5631
member qualifying for service credit under division (Z) of this 5632
section, "final average salary" means the total earnable salary on 5633
which contributions were made divided by the total number of years 5634
during which contributions were made, including any fraction of a 5635
year. If contributions were made for less than twelve months, 5636
"final average salary" means the member's total earnable salary. 5637

(L) "Annuity" means payments for life derived from 5638
contributions made by a contributor and paid from the annuity and 5639
pension reserve fund as provided in this chapter. All annuities 5640
shall be paid in twelve equal monthly installments. 5641

(M) "Annuity reserve" means the present value, computed upon 5642
the basis of the mortality and other tables adopted by the board, 5643
of all payments to be made on account of any annuity, or benefit 5644
in lieu of any annuity, granted to a retirant as provided in this 5645
chapter. 5646

(N)(1) "Disability retirement" means retirement as provided 5647
in section 145.36 of the Revised Code. 5648

(2) "Disability allowance" means an allowance paid on account 5649
of disability under section 145.361 of the Revised Code. 5650

(3) "Disability benefit" means a benefit paid as disability 5651
retirement under section 145.36 of the Revised Code, as a 5652
disability allowance under section 145.361 of the Revised Code, or 5653
as a disability benefit under section 145.37 of the Revised Code. 5654

(4) "Disability benefit recipient" means a member who is 5655
receiving a disability benefit. 5656

(O) "Age and service retirement" means retirement as provided 5657
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 5658
the Revised Code. 5659

(P) "Pensions" means annual payments for life derived from 5660
contributions made by the employer that at the time of retirement 5661
are credited into the annuity and pension reserve fund from the 5662
employers' accumulation fund and paid from the annuity and pension 5663
reserve fund as provided in this chapter. All pensions shall be 5664
paid in twelve equal monthly installments. 5665

(Q) "Retirement allowance" means the pension plus that 5666
portion of the benefit derived from contributions made by the 5667
member. 5668

(R)(1) Except as otherwise provided in division (R) of this 5669
section, "earnable salary" means all salary, wages, and other 5670
earnings paid to a contributor by reason of employment in a 5671

position covered by the retirement system. The salary, wages, and 5672
other earnings shall be determined prior to determination of the 5673
amount required to be contributed to the employees' savings fund 5674
under section 145.47 of the Revised Code and without regard to 5675
whether any of the salary, wages, or other earnings are treated as 5676
deferred income for federal income tax purposes. "Earnable salary" 5677
includes the following: 5678

(a) Payments made by the employer in lieu of salary, wages, 5679
or other earnings for sick leave, personal leave, or vacation used 5680
by the contributor; 5681

(b) Payments made by the employer for the conversion of sick 5682
leave, personal leave, and vacation leave accrued, but not used if 5683
the payment is made during the year in which the leave is accrued, 5684
except that payments made pursuant to section 124.383 or 124.386 5685
of the Revised Code are not earnable salary; 5686

(c) Allowances paid by the employer for full maintenance, 5687
consisting of housing, laundry, and meals, as certified to the 5688
retirement board by the employer or the head of the department 5689
that employs the contributor; 5690

(d) Fees and commissions paid under section 507.09 of the 5691
Revised Code; 5692

(e) Payments that are made under a disability leave program 5693
sponsored by the employer and for which the employer is required 5694
by section 145.296 of the Revised Code to make periodic employer 5695
and employee contributions; 5696

(f) Amounts included pursuant to divisions (K)(3) and (Y) of 5697
this section. 5698

(2) "Earnable salary" does not include any of the following: 5699

(a) Fees and commissions, other than those paid under section 5700
507.09 of the Revised Code, paid as sole compensation for personal 5701

services and fees and commissions for special services over and 5702
above services for which the contributor receives a salary; 5703

(b) Amounts paid by the employer to provide life insurance, 5704
sickness, accident, endowment, health, medical, hospital, dental, 5705
or surgical coverage, or other insurance for the contributor or 5706
the contributor's family, or amounts paid by the employer to the 5707
contributor in lieu of providing the insurance; 5708

(c) Incidental benefits, including lodging, food, laundry, 5709
parking, or services furnished by the employer, or use of the 5710
employer's property or equipment, or amounts paid by the employer 5711
to the contributor in lieu of providing the incidental benefits; 5712

(d) Reimbursement for job-related expenses authorized by the 5713
employer, including moving and travel expenses and expenses 5714
related to professional development; 5715

(e) Payments for accrued but unused sick leave, personal 5716
leave, or vacation that are made at any time other than in the 5717
year in which the sick leave, personal leave, or vacation was 5718
accrued; 5719

(f) Payments made to or on behalf of a contributor that are 5720
in excess of the annual compensation that may be taken into 5721
account by the retirement system under division (a)(17) of section 5722
401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 5723
U.S.C.A. 401(a)(17), as amended; 5724

(g) Payments made under division (B), (C), or (E) of section 5725
5923.05 of the Revised Code, Section 4 of Substitute Senate Bill 5726
No. 3 of the 119th general assembly, Section 3 of Amended 5727
Substitute Senate Bill No. 164 of the 124th general assembly, or 5728
Amended Substitute House Bill No. 405 of the 124th general 5729
assembly; 5730

(h) Anything of value received by the contributor that is 5731
based on or attributable to retirement or an agreement to retire, 5732

except that payments made on or before January 1, 1989, that are 5733
based on or attributable to an agreement to retire shall be 5734
included in earnable salary if both of the following apply: 5735

(i) The payments are made in accordance with contract 5736
provisions that were in effect prior to January 1, 1986; 5737

(ii) The employer pays the retirement system an amount 5738
specified by the retirement board equal to the additional 5739
liability resulting from the payments. 5740

(3) The retirement board shall determine by rule whether any 5741
compensation not enumerated in division (R) of this section is 5742
earnable salary, and its decision shall be final. 5743

(S) "Pension reserve" means the present value, computed upon 5744
the basis of the mortality and other tables adopted by the board, 5745
of all payments to be made on account of any retirement allowance 5746
or benefit in lieu of any retirement allowance, granted to a 5747
member or beneficiary under this chapter. 5748

(T)(1) "Contributing service" means all service credited to a 5749
member of the system since January 1, 1935, for which 5750
contributions are made as required by sections 145.47, 145.48, and 5751
145.483 of the Revised Code. In any year subsequent to 1934, 5752
credit for any service shall be allowed by the following formula: 5753

(a) For each month for which the member's earnable salary is 5754
two hundred fifty dollars or more, allow one month's credit. 5755

(b) For each month for which the member's earnable salary is 5756
less than two hundred fifty dollars, allow a fraction of a month's 5757
credit. The numerator of this fraction shall be the earnable 5758
salary during the month, and the denominator shall be two hundred 5759
fifty dollars, except that if the member's annual earnable salary 5760
is less than six hundred dollars, the member's credit shall not be 5761
reduced below twenty per cent of a year for a calendar year of 5762
employment during which the member worked each month. Division 5763

(T)(1)(b) of this section shall not reduce any credit earned 5764
before January 1, 1985. 5765

(2) Notwithstanding division (T)(1) of this section, an 5766
elected official who prior to January 1, 1980, was granted a full 5767
year of credit for each year of service as an elected official 5768
shall be considered to have earned a full year of credit for each 5769
year of service regardless of whether the service was full-time or 5770
part-time. The public employees retirement board has no authority 5771
to reduce the credit. 5772

(U) "State retirement board" means the public employees 5773
retirement board, the school employees retirement board, or the 5774
state teachers retirement board. 5775

(V) "Retirant" means any former member who retires and is 5776
receiving a monthly allowance as provided in sections 145.32, 5777
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 5778

(W) "Employer contribution" means the amount paid by an 5779
employer as determined under section 145.48 of the Revised Code. 5780

(X) "Public service terminates" means the last day for which 5781
a public employee is compensated for services performed for an 5782
employer or the date of the employee's death, whichever occurs 5783
first. 5784

(Y) When a member has been elected or appointed to an office, 5785
the term of which is two or more years, for which an annual salary 5786
is established, and in the event that the salary of the office is 5787
increased and the member is denied the additional salary by reason 5788
of any constitutional provision prohibiting an increase in salary 5789
during a term of office, the member may elect to have the amount 5790
of the member's contributions calculated upon the basis of the 5791
increased salary for the office. At the member's request, the 5792
board shall compute the total additional amount the member would 5793
have contributed, or the amount by which each of the member's 5794

contributions would have increased, had the member received the 5795
increased salary for the office the member holds. If the member 5796
elects to have the amount by which the member's contribution would 5797
have increased withheld from the member's salary, the member shall 5798
notify the employer, and the employer shall make the withholding 5799
and transmit it to the retirement system. A member who has not 5800
elected to have that amount withheld may elect at any time to make 5801
a payment to the retirement system equal to the additional amount 5802
the member's contribution would have increased, plus interest on 5803
that contribution, compounded annually at a rate established by 5804
the board and computed from the date on which the last 5805
contribution would have been withheld from the member's salary to 5806
the date of payment. A member may make a payment for part of the 5807
period for which the increased contribution was not withheld, in 5808
which case the interest shall be computed from the date the last 5809
contribution would have been withheld for the period for which the 5810
payment is made. Upon the payment of the increased contributions 5811
as provided in this division, the increased annual salary as 5812
provided by law for the office for the period for which the member 5813
paid increased contributions thereon shall be used in determining 5814
the member's earnable salary for the purpose of computing the 5815
member's final average salary. 5816

(Z) "Five years of service credit," for the exclusive purpose 5817
of satisfying the service credit requirements and of determining 5818
eligibility for benefits under section 145.33 of the Revised Code, 5819
means employment covered under this chapter or under a former 5820
retirement plan operated, recognized, or endorsed by the employer 5821
prior to coverage under this chapter or under a combination of the 5822
coverage. 5823

(AA) "Deputy sheriff" means any person who is commissioned 5824
and employed as a full-time peace officer by the sheriff of any 5825
county, and has been so employed since on or before December 31, 5826

1965; any person who is or has been commissioned and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code; or any person deputized by the sheriff of any county and employed pursuant to section 2301.12 of the Revised Code as a criminal bailiff or court constable who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code.

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

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

(1) Employed full time as a narcotics agent by a county 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. 5858

(EE) "Natural resources law enforcement staff officer" means 5859
a full-time employee of the department of natural resources who is 5860
designated a natural resources law enforcement staff officer under 5861
section 1501.013 of the Revised Code and is in compliance with 5862
section 109.77 of the Revised Code. 5863

(FF) "Park officer" means a full-time employee of the 5864
department of natural resources who is designated a park officer 5865
under section 1541.10 of the Revised Code and is in compliance 5866
with section 109.77 of the Revised Code. 5867

(GG) "Forest officer" means a full-time employee of the 5868
department of natural resources who is designated a forest officer 5869
under section 1503.29 of the Revised Code and is in compliance 5870
with section 109.77 of the Revised Code. 5871

(HH) "Preserve officer" means a full-time employee of the 5872
department of natural resources who is designated a preserve 5873
officer under section 1517.10 of the Revised Code and is in 5874
compliance with section 109.77 of the Revised Code. 5875

(II) "Wildlife officer" means a full-time employee of the 5876
department of natural resources who is designated a wildlife 5877
officer under section 1531.13 of the Revised Code and is in 5878
compliance with section 109.77 of the Revised Code. 5879

(JJ) "State watercraft officer" means a full-time employee of 5880
the department of natural resources who is designated a state 5881
watercraft officer under section 1547.521 of the Revised Code and 5882
is in compliance with section 109.77 of the Revised Code. 5883

(KK) "Park district police officer" means a full-time 5884
employee of a park district who is designated pursuant to section 5885
511.232 or 1545.13 of the Revised Code and is in compliance with 5886
section 109.77 of the Revised Code. 5887

(LL) "Conservancy district officer" means a full-time 5888
employee of a conservancy district who is designated pursuant to 5889
section 6101.75 of the Revised Code and is in compliance with 5890
section 109.77 of the Revised Code. 5891

(MM) "Municipal police officer" means a member of the 5892
organized police department of a municipal corporation who is 5893
employed full time, is in compliance with section 109.77 of the 5894
Revised Code, and is not a member of the Ohio police and fire 5895
pension fund. 5896

(NN) "Veterans' home police officer" means any person who is 5897
employed at a veterans' home as a police officer pursuant to 5898
section 5907.02 of the Revised Code and is in compliance with 5899
section 109.77 of the Revised Code. 5900

(OO) "Special police officer for a mental health institution" 5901
means any person who is designated as such pursuant to section 5902
5119.14 of the Revised Code and is in compliance with section 5903
109.77 of the Revised Code. 5904

(PP) "Special police officer for an institution for the 5905
mentally retarded and developmentally disabled" means any person 5906
who is designated as such pursuant to section 5123.13 of the 5907
Revised Code and is in compliance with section 109.77 of the 5908
Revised Code. 5909

(QQ) "State university law enforcement officer" means any 5910
person who is employed full time as a state university law 5911
enforcement officer pursuant to section 3345.04 of the Revised 5912
Code and who is in compliance with section 109.77 of the Revised 5913
Code. 5914

(RR) "House sergeant at arms" means any person appointed by 5915
the speaker of the house of representatives under division (B)(1) 5916
of section 101.311 of the Revised Code who has arrest authority 5917
under division (E)(1) of that section. 5918

(SS) "Assistant house sergeant at arms" means any person 5919
appointed by the house sergeant at arms under division (C)(1) of 5920
section 101.311 of the Revised Code. 5921

(TT) "Regional transit authority police officer" means a 5922
person who is employed full time as a regional transit authority 5923
police officer under division (Y) of section 306.35 of the Revised 5924
Code and is in compliance with section 109.77 of the Revised Code. 5925

(UU) "State highway patrol police officer" means a special 5926
police officer employed full time and designated by the 5927
superintendent of the state highway patrol pursuant to section 5928
5503.09 of the Revised Code or a person serving full time as a 5929
special police officer pursuant to that section on a permanent 5930
basis on October 21, 1997, who is in compliance with section 5931
109.77 of the Revised Code. 5932

(VV) "Municipal public safety director" means a person who 5933
serves full time as the public safety director of a municipal 5934
corporation with the duty of directing the activities of the 5935
municipal corporation's police department and fire department. 5936

(WW) Notwithstanding section 2901.01 of the Revised Code, 5937
"PERS law enforcement officer" means a sheriff or any of the 5938
following whose primary duties are to preserve the peace, protect 5939
life and property, and enforce the laws of this state: a deputy 5940
sheriff, township constable or police officer in a township police 5941
department or district, drug agent, department of public safety 5942
enforcement agent, natural resources law enforcement staff 5943
officer, park officer, forest officer, preserve officer, wildlife 5944
officer, state watercraft officer, park district police officer, 5945
conservancy district officer, veterans' home police officer, 5946
special police officer for a mental health institution, special 5947
police officer for an institution for the mentally retarded and 5948
developmentally disabled, state university law enforcement 5949
officer, municipal police officer, house sergeant at arms, 5950

assistant house sergeant at arms, regional transit authority 5951
police officer, or state highway patrol police officer. PERS law 5952
enforcement officer also includes a person serving as a municipal 5953
public safety director at any time during the period from 5954
September 29, 2005, to March 24, 2009, if the duties of that 5955
service were to preserve the peace, protect life and property, and 5956
enforce the laws of this state. 5957

(XX) "Hamilton county municipal court bailiff" means a person 5958
appointed by the clerk of courts of the Hamilton county municipal 5959
court under division (A)(3) of section 1901.32 of the Revised Code 5960
who is employed full time as a bailiff or deputy bailiff, who has 5961
received a certificate attesting to the person's satisfactory 5962
completion of the peace officer basic training described in 5963
division (D)(1) of section 109.77 of the Revised Code. 5964

(YY) "PERS public safety officer" means a Hamilton county 5965
municipal court bailiff, or any of the following whose primary 5966
duties are other than to preserve the peace, protect life and 5967
property, and enforce the laws of this state: a deputy sheriff, 5968
township constable or police officer in a township police 5969
department or district, drug agent, department of public safety 5970
enforcement agent, natural resources law enforcement staff 5971
officer, park officer, forest officer, preserve officer, wildlife 5972
officer, state watercraft officer, park district police officer, 5973
conservancy district officer, veterans' home police officer, 5974
special police officer for a mental health institution, special 5975
police officer for an institution for the mentally retarded and 5976
developmentally disabled, state university law enforcement 5977
officer, municipal police officer, house sergeant at arms, 5978
assistant house sergeant at arms, regional transit authority 5979
police officer, or state highway patrol police officer. "PERS 5980
public safety officer" also includes a person serving as a 5981
municipal public safety director at any time during the period 5982

from September 29, 2005, to March 24, 2009, if the duties of that 5983
service were other than to preserve the peace, protect life and 5984
property, and enforce the laws of this state. 5985

(ZZ) "Fiduciary" means a person who does any of the 5986
following: 5987

(1) Exercises any discretionary authority or control with 5988
respect to the management of the system or with respect to the 5989
management or disposition of its assets; 5990

(2) Renders investment advice for a fee, direct or indirect, 5991
with respect to money or property of the system; 5992

(3) Has any discretionary authority or responsibility in the 5993
administration of the system. 5994

(AAA) "Actuary" means an individual who satisfies all of the 5995
following requirements: 5996

(1) Is a member of the American academy of actuaries; 5997

(2) Is an associate or fellow of the society of actuaries; 5998

(3) Has a minimum of five years' experience in providing 5999
actuarial services to public retirement plans. 6000

(BBB) "PERS defined benefit plan" means the plan described in 6001
sections 145.201 to 145.79 of the Revised Code. 6002

(CCC) "PERS defined contribution plans" means the plan or 6003
plans established under section 145.81 of the Revised Code. 6004

Sec. 145.012. (A) "Public employee," as defined in division 6005
(A) of section 145.01 of the Revised Code, does not include any 6006
person: 6007

(1) Who is employed by a private, temporary-help service and 6008
performs services under the direction of a public employer or is 6009
employed on a contractual basis as an independent contractor under 6010
a personal service contract with a public employer; 6011

| | |
|--|------|
| (2) Who is an emergency employee serving on a temporary basis | 6012 |
| in case of fire, snow, earthquake, flood, or other similar | 6013 |
| emergency; | 6014 |
| (3) Who is employed in a program established pursuant to the | 6015 |
| "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. | 6016 |
| 1501; | 6017 |
| (4) Who is an appointed member of either the motor vehicle | 6018 |
| salvage dealers board or the motor vehicle dealer's board whose | 6019 |
| rate and method of payment are determined pursuant to division (J) | 6020 |
| of section 124.15 of the Revised Code; | 6021 |
| (5) Who is employed as an election worker and paid less than | 6022 |
| five hundred dollars per calendar year for that service; | 6023 |
| (6) Who is employed as a firefighter in a position requiring | 6024 |
| satisfactory completion of a firefighter training course approved | 6025 |
| under former section 3303.07 or section 4765.55 of the Revised | 6026 |
| Code or conducted under section 3737.33 of the Revised Code except | 6027 |
| for the following: | 6028 |
| (a) Any firefighter who has elected under section 145.013 of | 6029 |
| the Revised Code to remain a contributing member of the public | 6030 |
| employees retirement system; | 6031 |
| (b) Any firefighter who was eligible to transfer from the | 6032 |
| public employees retirement system to the Ohio police and fire | 6033 |
| pension fund under section 742.51 or 742.515 of the Revised Code | 6034 |
| and did not elect to transfer; | 6035 |
| (c) Any firefighter who has elected under section 742.516 of | 6036 |
| the Revised Code to transfer from the Ohio police and fire pension | 6037 |
| fund to the public employees retirement system. | 6038 |
| (7) Who is a member of the board of health of a city or | 6039 |
| general health district, which pursuant to sections 3709.051 and | 6040 |
| 3709.07 of the Revised Code includes a combined health district, | 6041 |

and whose compensation for attendance at meetings of the board is 6042
set forth in division (B) of section 3709.02 or division (B) of 6043
section 3709.05 of the Revised Code, as appropriate; 6044

(8) Who participates in an alternative retirement plan 6045
established under Chapter 3305. of the Revised Code; 6046

(9) Who is a member of the board of directors of a sanitary 6047
district established under Chapter 6115. of the Revised Code; 6048

(10) Who is a member of the unemployment compensation 6049
advisory council; 6050

(11) Who is an employee, officer, or governor-appointed 6051
member of the board of directors of the nonprofit corporation 6052
formed under section 187.01 of the Revised Code; 6053

(12) Who is employed by the nonprofit entity established to 6054
provide advocacy services and a client assistance program for 6055
people with disabilities under Section 319.20 of Am. Sub. H.B. 153 6056
of the 129th general assembly and whose employment begins on or 6057
after October 1, 2012. 6058

(B) No inmate of a correctional institution operated by the 6059
department of rehabilitation and correction, no patient in a 6060
hospital for the mentally ill or criminally insane operated by the 6061
department of mental health, no resident in an institution for the 6062
mentally retarded operated by the department of developmental 6063
disabilities, no resident admitted as a patient of a veterans' 6064
home operated under Chapter 5907. of the Revised Code, and no 6065
resident of a county home shall be considered as a public employee 6066
for the purpose of establishing membership or calculating service 6067
credit or benefits under this chapter. Nothing in this division 6068
shall be construed to affect any service credit attained by any 6069
person who was a public employee before becoming an inmate, 6070
patient, or resident at any institution listed in this division, 6071
or the payment of any benefit for which such a person or such a 6072

person's beneficiaries otherwise would be eligible. 6073

Sec. 149.43. (A) As used in this section: 6074

(1) "Public record" means records kept by any public office, 6075
including, but not limited to, state, county, city, village, 6076
township, and school district units, and records pertaining to the 6077
delivery of educational services by an alternative school in this 6078
state kept by the nonprofit or for-profit entity operating the 6079
alternative school pursuant to section 3313.533 of the Revised 6080
Code. "Public record" does not mean any of the following: 6081

(a) Medical records; 6082

(b) Records pertaining to probation and parole proceedings or 6083
to proceedings related to the imposition of community control 6084
sanctions and post-release control sanctions; 6085

(c) Records pertaining to actions under section 2151.85 and 6086
division (C) of section 2919.121 of the Revised Code and to 6087
appeals of actions arising under those sections; 6088

(d) Records pertaining to adoption proceedings, including the 6089
contents of an adoption file maintained by the department of 6090
health under section 3705.12 of the Revised Code; 6091

(e) Information in a record contained in the putative father 6092
registry established by section 3107.062 of the Revised Code, 6093
regardless of whether the information is held by the department of 6094
job and family services or, pursuant to section 3111.69 of the 6095
Revised Code, the office of child support in the department or a 6096
child support enforcement agency; 6097

(f) Records listed in division (A) of section 3107.42 of the 6098
Revised Code or specified in division (A) of section 3107.52 of 6099
the Revised Code; 6100

(g) Trial preparation records; 6101

| | |
|---|--|
| (h) Confidential law enforcement investigatory records; | 6102 |
| (i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code; | 6103 6104 |
| (j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code; | 6105 6106 |
| (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; | 6107 6108 6109 6110 |
| (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; | 6111 6112 6113 6114 |
| (m) Intellectual property records; | 6115 |
| (n) Donor profile records; | 6116 |
| (o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code; | 6117 6118 |
| (p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, <u>community-based correctional facility employee</u> , youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information; | 6119 6120 6121 6122 6123 6124 |
| (q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code; | 6125 6126 6127 6128 6129 |
| (r) Information pertaining to the recreational activities of a person under the age of eighteen; | 6130 6131 |

(s) Records provided to, statements made by review board 6132
members during meetings of, and all work products of a child 6133
fatality review board acting under sections 307.621 to 307.629 of 6134
the Revised Code, and child fatality review data submitted by the 6135
child fatality review board to the department of health or a 6136
national child death review database, other than the report 6137
prepared pursuant to division (A) of section 307.626 of the 6138
Revised Code; 6139

(t) Records provided to and statements made by the executive 6140
director of a public children services agency or a prosecuting 6141
attorney acting pursuant to section 5153.171 of the Revised Code 6142
other than the information released under that section; 6143

(u) Test materials, examinations, or evaluation tools used in 6144
an examination for licensure as a nursing home administrator that 6145
the board of examiners of nursing home administrators administers 6146
under section 4751.04 of the Revised Code or contracts under that 6147
section with a private or government entity to administer; 6148

(v) Records the release of which is prohibited by state or 6149
federal law; 6150

(w) Proprietary information of or relating to any person that 6151
is submitted to or compiled by the Ohio venture capital authority 6152
created under section 150.01 of the Revised Code; 6153

(x) Information reported and evaluations conducted pursuant 6154
to section 3701.072 of the Revised Code; 6155

(y) Financial statements and data any person submits for any 6156
purpose to the Ohio housing finance agency or the controlling 6157
board in connection with applying for, receiving, or accounting 6158
for financial assistance from the agency, and information that 6159
identifies any individual who benefits directly or indirectly from 6160
financial assistance from the agency; 6161

(z) Records listed in section 5101.29 of the Revised Code; 6162

(aa) Discharges recorded with a county recorder under section 6163
317.24 of the Revised Code, as specified in division (B)(2) of 6164
that section; 6165

(bb) Usage information including names and addresses of 6166
specific residential and commercial customers of a municipally 6167
owned or operated public utility. 6168

(2) "Confidential law enforcement investigatory record" means 6169
any record that pertains to a law enforcement matter of a 6170
criminal, quasi-criminal, civil, or administrative nature, but 6171
only to the extent that the release of the record would create a 6172
high probability of disclosure of any of the following: 6173

(a) The identity of a suspect who has not been charged with 6174
the offense to which the record pertains, or of an information 6175
source or witness to whom confidentiality has been reasonably 6176
promised; 6177

(b) Information provided by an information source or witness 6178
to whom confidentiality has been reasonably promised, which 6179
information would reasonably tend to disclose the source's or 6180
witness's identity; 6181

(c) Specific confidential investigatory techniques or 6182
procedures or specific investigatory work product; 6183

(d) Information that would endanger the life or physical 6184
safety of law enforcement personnel, a crime victim, a witness, or 6185
a confidential information source. 6186

(3) "Medical record" means any document or combination of 6187
documents, except births, deaths, and the fact of admission to or 6188
discharge from a hospital, that pertains to the medical history, 6189
diagnosis, prognosis, or medical condition of a patient and that 6190
is generated and maintained in the process of medical treatment. 6191

(4) "Trial preparation record" means any record that contains 6192

information that is specifically compiled in reasonable 6193
anticipation of, or in defense of, a civil or criminal action or 6194
proceeding, including the independent thought processes and 6195
personal trial preparation of an attorney. 6196

(5) "Intellectual property record" means a record, other than 6197
a financial or administrative record, that is produced or 6198
collected by or for faculty or staff of a state institution of 6199
higher learning in the conduct of or as a result of study or 6200
research on an educational, commercial, scientific, artistic, 6201
technical, or scholarly issue, regardless of whether the study or 6202
research was sponsored by the institution alone or in conjunction 6203
with a governmental body or private concern, and that has not been 6204
publicly released, published, or patented. 6205

(6) "Donor profile record" means all records about donors or 6206
potential donors to a public institution of higher education 6207
except the names and reported addresses of the actual donors and 6208
the date, amount, and conditions of the actual donation. 6209

(7) "Peace officer, parole officer, probation officer, 6210
bailiff, prosecuting attorney, assistant prosecuting attorney, 6211
correctional employee, community-based correctional facility 6212
employee, youth services employee, firefighter, EMT, or 6213
investigator of the bureau of criminal identification and 6214
investigation residential and familial information" means any 6215
information that discloses any of the following about a peace 6216
officer, parole officer, probation officer, bailiff, prosecuting 6217
attorney, assistant prosecuting attorney, correctional employee, 6218
community-based correctional facility employee, youth services 6219
employee, firefighter, EMT, or investigator of the bureau of 6220
criminal identification and investigation: 6221

(a) The address of the actual personal residence of a peace 6222
officer, parole officer, probation officer, bailiff, assistant 6223
prosecuting attorney, correctional employee, community-based 6224

correctional facility employee, youth services employee, 6225
firefighter, EMT, or an investigator of the bureau of criminal 6226
identification and investigation, except for the state or 6227
political subdivision in which the peace officer, parole officer, 6228
probation officer, bailiff, assistant prosecuting attorney, 6229
correctional employee, community-based correctional facility 6230
employee, youth services employee, firefighter, EMT, or 6231
investigator of the bureau of criminal identification and 6232
investigation resides; 6233

(b) Information compiled from referral to or participation in 6234
an employee assistance program; 6235

(c) The social security number, the residential telephone 6236
number, any bank account, debit card, charge card, or credit card 6237
number, or the emergency telephone number of, or any medical 6238
information pertaining to, a peace officer, parole officer, 6239
probation officer, bailiff, prosecuting attorney, assistant 6240
prosecuting attorney, correctional employee, community-based 6241
correctional facility employee, youth services employee, 6242
firefighter, EMT, or investigator of the bureau of criminal 6243
identification and investigation; 6244

(d) The name of any beneficiary of employment benefits, 6245
including, but not limited to, life insurance benefits, provided 6246
to a peace officer, parole officer, probation officer, bailiff, 6247
prosecuting attorney, assistant prosecuting attorney, correctional 6248
employee, community-based correctional facility employee, youth 6249
services employee, firefighter, EMT, or investigator of the bureau 6250
of criminal identification and investigation by the peace 6251
officer's, parole officer's, probation officer's, bailiff's, 6252
prosecuting attorney's, assistant prosecuting attorney's, 6253
correctional employee's, community-based correctional facility 6254
employee's, youth services employee's, firefighter's, EMT's, or 6255
investigator of the bureau of criminal identification and 6256

investigation's employer; 6257

(e) The identity and amount of any charitable or employment 6258
benefit deduction made by the peace officer's, parole officer's, 6259
probation officer's, bailiff's, prosecuting attorney's, assistant 6260
prosecuting attorney's, correctional employee's, community-based 6261
correctional facility employee's, youth services employee's, 6262
firefighter's, EMT's, or investigator of the bureau of criminal 6263
identification and investigation's employer from the peace 6264
officer's, parole officer's, probation officer's, bailiff's, 6265
prosecuting attorney's, assistant prosecuting attorney's, 6266
correctional employee's, community-based correctional facility 6267
employee's, youth services employee's, firefighter's, EMT's, or 6268
investigator of the bureau of criminal identification and 6269
investigation's compensation unless the amount of the deduction is 6270
required by state or federal law; 6271

(f) The name, the residential address, the name of the 6272
employer, the address of the employer, the social security number, 6273
the residential telephone number, any bank account, debit card, 6274
charge card, or credit card number, or the emergency telephone 6275
number of the spouse, a former spouse, or any child of a peace 6276
officer, parole officer, probation officer, bailiff, prosecuting 6277
attorney, assistant prosecuting attorney, correctional employee, 6278
community-based correctional facility employee, youth services 6279
employee, firefighter, EMT, or investigator of the bureau of 6280
criminal identification and investigation; 6281

(g) A photograph of a peace officer who holds a position or 6282
has an assignment that may include undercover or plain clothes 6283
positions or assignments as determined by the peace officer's 6284
appointing authority. 6285

As used in divisions (A)(7) and (B)(9) of this section, 6286
"peace officer" has the same meaning as in section 109.71 of the 6287
Revised Code and also includes the superintendent and troopers of 6288

the state highway patrol; it does not include the sheriff of a 6289
county or a supervisory employee who, in the absence of the 6290
sheriff, is authorized to stand in for, exercise the authority of, 6291
and perform the duties of the sheriff. 6292

As used in divisions (A)(7) and (B)(5) of this section, 6293
"correctional employee" means any employee of the department of 6294
rehabilitation and correction who in the course of performing the 6295
employee's job duties has or has had contact with inmates and 6296
persons under supervision. 6297

As used in divisions (A)(7) and (B)(5) of this section, 6298
"youth services employee" means any employee of the department of 6299
youth services who in the course of performing the employee's job 6300
duties has or has had contact with children committed to the 6301
custody of the department of youth services. 6302

As used in divisions (A)(7) and (B)(9) of this section, 6303
"firefighter" means any regular, paid or volunteer, member of a 6304
lawfully constituted fire department of a municipal corporation, 6305
township, fire district, or village. 6306

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 6307
means EMTs-basic, EMTs-I, and paramedics that provide emergency 6308
medical services for a public emergency medical service 6309
organization. "Emergency medical service organization," 6310
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 6311
section 4765.01 of the Revised Code. 6312

As used in divisions (A)(7) and (B)(9) of this section, 6313
"investigator of the bureau of criminal identification and 6314
investigation" has the meaning defined in section 2903.11 of the 6315
Revised Code. 6316

(8) "Information pertaining to the recreational activities of 6317
a person under the age of eighteen" means information that is kept 6318
in the ordinary course of business by a public office, that 6319

pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.

(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.

(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or

person responsible for public records shall make copies of the 6350
requested public record available at cost and within a reasonable 6351
period of time. If a public record contains information that is 6352
exempt from the duty to permit public inspection or to copy the 6353
public record, the public office or the person responsible for the 6354
public record shall make available all of the information within 6355
the public record that is not exempt. When making that public 6356
record available for public inspection or copying that public 6357
record, the public office or the person responsible for the public 6358
record shall notify the requester of any redaction or make the 6359
redaction plainly visible. A redaction shall be deemed a denial of 6360
a request to inspect or copy the redacted information, except if 6361
federal or state law authorizes or requires a public office to 6362
make the redaction. 6363

(2) To facilitate broader access to public records, a public 6364
office or the person responsible for public records shall organize 6365
and maintain public records in a manner that they can be made 6366
available for inspection or copying in accordance with division 6367
(B) of this section. A public office also shall have available a 6368
copy of its current records retention schedule at a location 6369
readily available to the public. If a requester makes an ambiguous 6370
or overly broad request or has difficulty in making a request for 6371
copies or inspection of public records under this section such 6372
that the public office or the person responsible for the requested 6373
public record cannot reasonably identify what public records are 6374
being requested, the public office or the person responsible for 6375
the requested public record may deny the request but shall provide 6376
the requester with an opportunity to revise the request by 6377
informing the requester of the manner in which records are 6378
maintained by the public office and accessed in the ordinary 6379
course of the public office's or person's duties. 6380

(3) If a request is ultimately denied, in part or in whole, 6381

the public office or the person responsible for the requested 6382
public record shall provide the requester with an explanation, 6383
including legal authority, setting forth why the request was 6384
denied. If the initial request was provided in writing, the 6385
explanation also shall be provided to the requester in writing. 6386
The explanation shall not preclude the public office or the person 6387
responsible for the requested public record from relying upon 6388
additional reasons or legal authority in defending an action 6389
commenced under division (C) of this section. 6390

(4) Unless specifically required or authorized by state or 6391
federal law or in accordance with division (B) of this section, no 6392
public office or person responsible for public records may limit 6393
or condition the availability of public records by requiring 6394
disclosure of the requester's identity or the intended use of the 6395
requested public record. Any requirement that the requester 6396
disclose the requestor's identity or the intended use of the 6397
requested public record constitutes a denial of the request. 6398

(5) A public office or person responsible for public records 6399
may ask a requester to make the request in writing, may ask for 6400
the requester's identity, and may inquire about the intended use 6401
of the information requested, but may do so only after disclosing 6402
to the requester that a written request is not mandatory and that 6403
the requester may decline to reveal the requester's identity or 6404
the intended use and when a written request or disclosure of the 6405
identity or intended use would benefit the requester by enhancing 6406
the ability of the public office or person responsible for public 6407
records to identify, locate, or deliver the public records sought 6408
by the requester. 6409

(6) If any person chooses to obtain a copy of a public record 6410
in accordance with division (B) of this section, the public office 6411
or person responsible for the public record may require that 6412
person to pay in advance the cost involved in providing the copy 6413

of the public record in accordance with the choice made by the 6414
person seeking the copy under this division. The public office or 6415
the person responsible for the public record shall permit that 6416
person to choose to have the public record duplicated upon paper, 6417
upon the same medium upon which the public office or person 6418
responsible for the public record keeps it, or upon any other 6419
medium upon which the public office or person responsible for the 6420
public record determines that it reasonably can be duplicated as 6421
an integral part of the normal operations of the public office or 6422
person responsible for the public record. When the person seeking 6423
the copy makes a choice under this division, the public office or 6424
person responsible for the public record shall provide a copy of 6425
it in accordance with the choice made by the person seeking the 6426
copy. Nothing in this section requires a public office or person 6427
responsible for the public record to allow the person seeking a 6428
copy of the public record to make the copies of the public record. 6429

(7) Upon a request made in accordance with division (B) of 6430
this section and subject to division (B)(6) of this section, a 6431
public office or person responsible for public records shall 6432
transmit a copy of a public record to any person by United States 6433
mail or by any other means of delivery or transmission within a 6434
reasonable period of time after receiving the request for the 6435
copy. The public office or person responsible for the public 6436
record may require the person making the request to pay in advance 6437
the cost of postage if the copy is transmitted by United States 6438
mail or the cost of delivery if the copy is transmitted other than 6439
by United States mail, and to pay in advance the costs incurred 6440
for other supplies used in the mailing, delivery, or transmission. 6441

Any public office may adopt a policy and procedures that it 6442
will follow in transmitting, within a reasonable period of time 6443
after receiving a request, copies of public records by United 6444
States mail or by any other means of delivery or transmission 6445

pursuant to this division. A public office that adopts a policy 6446
and procedures under this division shall comply with them in 6447
performing its duties under this division. 6448

In any policy and procedures adopted under this division, a 6449
public office may limit the number of records requested by a 6450
person that the office will transmit by United States mail to ten 6451
per month, unless the person certifies to the office in writing 6452
that the person does not intend to use or forward the requested 6453
records, or the information contained in them, for commercial 6454
purposes. For purposes of this division, "commercial" shall be 6455
narrowly construed and does not include reporting or gathering 6456
news, reporting or gathering information to assist citizen 6457
oversight or understanding of the operation or activities of 6458
government, or nonprofit educational research. 6459

(8) A public office or person responsible for public records 6460
is not required to permit a person who is incarcerated pursuant to 6461
a criminal conviction or a juvenile adjudication to inspect or to 6462
obtain a copy of any public record concerning a criminal 6463
investigation or prosecution or concerning what would be a 6464
criminal investigation or prosecution if the subject of the 6465
investigation or prosecution were an adult, unless the request to 6466
inspect or to obtain a copy of the record is for the purpose of 6467
acquiring information that is subject to release as a public 6468
record under this section and the judge who imposed the sentence 6469
or made the adjudication with respect to the person, or the 6470
judge's successor in office, finds that the information sought in 6471
the public record is necessary to support what appears to be a 6472
justiciable claim of the person. 6473

(9)(a) Upon written request made and signed by a journalist 6474
on or after December 16, 1999, a public office, or person 6475
responsible for public records, having custody of the records of 6476
the agency employing a specified peace officer, parole officer, 6477

probation officer, bailiff, prosecuting attorney, assistant 6478
prosecuting attorney, correctional employee, youth services 6479
employee, firefighter, EMT, or investigator of the bureau of 6480
criminal identification and investigation shall disclose to the 6481
journalist the address of the actual personal residence of the 6482
peace officer, parole officer, probation officer, bailiff, 6483
prosecuting attorney, assistant prosecuting attorney, correctional 6484
employee, youth services employee, firefighter, EMT, or 6485
investigator of the bureau of criminal identification and 6486
investigation and, if the peace officer's, parole officer's, 6487
probation officer's, bailiff's, prosecuting attorney's, assistant 6488
prosecuting attorney's, correctional employee's, youth services 6489
employee's, firefighter's, EMT's, or investigator of the bureau of 6490
criminal identification and investigation's spouse, former spouse, 6491
or child is employed by a public office, the name and address of 6492
the employer of the peace officer's, parole officer's, probation 6493
officer's, bailiff's, prosecuting attorney's, assistant 6494
prosecuting attorney's, correctional employee's, youth services 6495
employee's, firefighter's, EMT's, or investigator of the bureau of 6496
criminal identification and investigation's spouse, former spouse, 6497
or child. The request shall include the journalist's name and 6498
title and the name and address of the journalist's employer and 6499
shall state that disclosure of the information sought would be in 6500
the public interest. 6501

(b) Division (B)(9)(a) of this section also applies to 6502
journalist requests for customer information maintained by a 6503
municipally owned or operated public utility, other than social 6504
security numbers and any private financial information such as 6505
credit reports, payment methods, credit card numbers, and bank 6506
account information. 6507

(c) As used in division (B)(9) of this section, "journalist" 6508
means a person engaged in, connected with, or employed by any news 6509

medium, including a newspaper, magazine, press association, news 6510
agency, or wire service, a radio or television station, or a 6511
similar medium, for the purpose of gathering, processing, 6512
transmitting, compiling, editing, or disseminating information for 6513
the general public. 6514

(C)(1) If a person allegedly is aggrieved by the failure of a 6515
public office or the person responsible for public records to 6516
promptly prepare a public record and to make it available to the 6517
person for inspection in accordance with division (B) of this 6518
section or by any other failure of a public office or the person 6519
responsible for public records to comply with an obligation in 6520
accordance with division (B) of this section, the person allegedly 6521
aggrieved may commence a mandamus action to obtain a judgment that 6522
orders the public office or the person responsible for the public 6523
record to comply with division (B) of this section, that awards 6524
court costs and reasonable attorney's fees to the person that 6525
instituted the mandamus action, and, if applicable, that includes 6526
an order fixing statutory damages under division (C)(1) of this 6527
section. The mandamus action may be commenced in the court of 6528
common pleas of the county in which division (B) of this section 6529
allegedly was not complied with, in the supreme court pursuant to 6530
its original jurisdiction under Section 2 of Article IV, Ohio 6531
Constitution, or in the court of appeals for the appellate 6532
district in which division (B) of this section allegedly was not 6533
complied with pursuant to its original jurisdiction under Section 6534
3 of Article IV, Ohio Constitution. 6535

If a requestor transmits a written request by hand delivery 6536
or certified mail to inspect or receive copies of any public 6537
record in a manner that fairly describes the public record or 6538
class of public records to the public office or person responsible 6539
for the requested public records, except as otherwise provided in 6540
this section, the requestor shall be entitled to recover the 6541

amount of statutory damages set forth in this division if a court 6542
determines that the public office or the person responsible for 6543
public records failed to comply with an obligation in accordance 6544
with division (B) of this section. 6545

The amount of statutory damages shall be fixed at one hundred 6546
dollars for each business day during which the public office or 6547
person responsible for the requested public records failed to 6548
comply with an obligation in accordance with division (B) of this 6549
section, beginning with the day on which the requester files a 6550
mandamus action to recover statutory damages, up to a maximum of 6551
one thousand dollars. The award of statutory damages shall not be 6552
construed as a penalty, but as compensation for injury arising 6553
from lost use of the requested information. The existence of this 6554
injury shall be conclusively presumed. The award of statutory 6555
damages shall be in addition to all other remedies authorized by 6556
this section. 6557

The court may reduce an award of statutory damages or not 6558
award statutory damages if the court determines both of the 6559
following: 6560

(a) That, based on the ordinary application of statutory law 6561
and case law as it existed at the time of the conduct or 6562
threatened conduct of the public office or person responsible for 6563
the requested public records that allegedly constitutes a failure 6564
to comply with an obligation in accordance with division (B) of 6565
this section and that was the basis of the mandamus action, a 6566
well-informed public office or person responsible for the 6567
requested public records reasonably would believe that the conduct 6568
or threatened conduct of the public office or person responsible 6569
for the requested public records did not constitute a failure to 6570
comply with an obligation in accordance with division (B) of this 6571
section; 6572

(b) That a well-informed public office or person responsible 6573

for the requested public records reasonably would believe that the 6574
conduct or threatened conduct of the public office or person 6575
responsible for the requested public records would serve the 6576
public policy that underlies the authority that is asserted as 6577
permitting that conduct or threatened conduct. 6578

(2)(a) If the court issues a writ of mandamus that orders the 6579
public office or the person responsible for the public record to 6580
comply with division (B) of this section and determines that the 6581
circumstances described in division (C)(1) of this section exist, 6582
the court shall determine and award to the relator all court 6583
costs. 6584

(b) If the court renders a judgment that orders the public 6585
office or the person responsible for the public record to comply 6586
with division (B) of this section, the court may award reasonable 6587
attorney's fees subject to reduction as described in division 6588
(C)(2)(c) of this section. The court shall award reasonable 6589
attorney's fees, subject to reduction as described in division 6590
(C)(2)(c) of this section when either of the following applies: 6591

(i) The public office or the person responsible for the 6592
public records failed to respond affirmatively or negatively to 6593
the public records request in accordance with the time allowed 6594
under division (B) of this section. 6595

(ii) The public office or the person responsible for the 6596
public records promised to permit the relator to inspect or 6597
receive copies of the public records requested within a specified 6598
period of time but failed to fulfill that promise within that 6599
specified period of time. 6600

(c) Court costs and reasonable attorney's fees awarded under 6601
this section shall be construed as remedial and not punitive. 6602
Reasonable attorney's fees shall include reasonable fees incurred 6603
to produce proof of the reasonableness and amount of the fees and 6604

to otherwise litigate entitlement to the fees. The court may 6605
reduce an award of attorney's fees to the relator or not award 6606
attorney's fees to the relator if the court determines both of the 6607
following: 6608

(i) That, based on the ordinary application of statutory law 6609
and case law as it existed at the time of the conduct or 6610
threatened conduct of the public office or person responsible for 6611
the requested public records that allegedly constitutes a failure 6612
to comply with an obligation in accordance with division (B) of 6613
this section and that was the basis of the mandamus action, a 6614
well-informed public office or person responsible for the 6615
requested public records reasonably would believe that the conduct 6616
or threatened conduct of the public office or person responsible 6617
for the requested public records did not constitute a failure to 6618
comply with an obligation in accordance with division (B) of this 6619
section; 6620

(ii) That a well-informed public office or person responsible 6621
for the requested public records reasonably would believe that the 6622
conduct or threatened conduct of the public office or person 6623
responsible for the requested public records as described in 6624
division (C)(2)(c)(i) of this section would serve the public 6625
policy that underlies the authority that is asserted as permitting 6626
that conduct or threatened conduct. 6627

(D) Chapter 1347. of the Revised Code does not limit the 6628
provisions of this section. 6629

(E)(1) To ensure that all employees of public offices are 6630
appropriately educated about a public office's obligations under 6631
division (B) of this section, all elected officials or their 6632
appropriate designees shall attend training approved by the 6633
attorney general as provided in section 109.43 of the Revised 6634
Code. In addition, all public offices shall adopt a public records 6635
policy in compliance with this section for responding to public 6636

records requests. In adopting a public records policy under this 6637
division, a public office may obtain guidance from the model 6638
public records policy developed and provided to the public office 6639
by the attorney general under section 109.43 of the Revised Code. 6640
Except as otherwise provided in this section, the policy may not 6641
limit the number of public records that the public office will 6642
make available to a single person, may not limit the number of 6643
public records that it will make available during a fixed period 6644
of time, and may not establish a fixed period of time before it 6645
will respond to a request for inspection or copying of public 6646
records, unless that period is less than eight hours. 6647

(2) The public office shall distribute the public records 6648
policy adopted by the public office under division (E)(1) of this 6649
section to the employee of the public office who is the records 6650
custodian or records manager or otherwise has custody of the 6651
records of that office. The public office shall require that 6652
employee to acknowledge receipt of the copy of the public records 6653
policy. The public office shall create a poster that describes its 6654
public records policy and shall post the poster in a conspicuous 6655
place in the public office and in all locations where the public 6656
office has branch offices. The public office may post its public 6657
records policy on the internet web site of the public office if 6658
the public office maintains an internet web site. A public office 6659
that has established a manual or handbook of its general policies 6660
and procedures for all employees of the public office shall 6661
include the public records policy of the public office in the 6662
manual or handbook. 6663

(F)(1) The bureau of motor vehicles may adopt rules pursuant 6664
to Chapter 119. of the Revised Code to reasonably limit the number 6665
of bulk commercial special extraction requests made by a person 6666
for the same records or for updated records during a calendar 6667
year. The rules may include provisions for charges to be made for 6668

bulk commercial special extraction requests for the actual cost of 6669
the bureau, plus special extraction costs, plus ten per cent. The 6670
bureau may charge for expenses for redacting information, the 6671
release of which is prohibited by law. 6672

(2) As used in division (F)(1) of this section: 6673

(a) "Actual cost" means the cost of depleted supplies, 6674
records storage media costs, actual mailing and alternative 6675
delivery costs, or other transmitting costs, and any direct 6676
equipment operating and maintenance costs, including actual costs 6677
paid to private contractors for copying services. 6678

(b) "Bulk commercial special extraction request" means a 6679
request for copies of a record for information in a format other 6680
than the format already available, or information that cannot be 6681
extracted without examination of all items in a records series, 6682
class of records, or data base by a person who intends to use or 6683
forward the copies for surveys, marketing, solicitation, or resale 6684
for commercial purposes. "Bulk commercial special extraction 6685
request" does not include a request by a person who gives 6686
assurance to the bureau that the person making the request does 6687
not intend to use or forward the requested copies for surveys, 6688
marketing, solicitation, or resale for commercial purposes. 6689

(c) "Commercial" means profit-seeking production, buying, or 6690
selling of any good, service, or other product. 6691

(d) "Special extraction costs" means the cost of the time 6692
spent by the lowest paid employee competent to perform the task, 6693
the actual amount paid to outside private contractors employed by 6694
the bureau, or the actual cost incurred to create computer 6695
programs to make the special extraction. "Special extraction 6696
costs" include any charges paid to a public agency for computer or 6697
records services. 6698

(3) For purposes of divisions (F)(1) and (2) of this section, 6699

"surveys, marketing, solicitation, or resale for commercial purposes" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

Sec. 152.09. (A) As used in sections 152.06 and 152.09 to 152.33 of the Revised Code:

(1) "Obligations" means bonds, notes, or other evidences of obligation, including interest coupons pertaining thereto, issued pursuant to sections 152.09 to 152.33 of the Revised Code.

(2) "State agencies" means the state of Ohio and branches, officers, boards, commissions, authorities, departments, divisions, courts, general assembly, or other units or agencies of the state. "State agency" also includes counties, municipal corporations, and governmental entities of this state that enter into leases with the Ohio building authority pursuant to section 152.31 of the Revised Code or that are designated by law as state agencies for the purpose of performing a state function that is to be housed by a capital facility for which the Ohio building authority is authorized to issue revenue obligations pursuant to sections 152.09 to 152.33 of the Revised Code.

(3) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the Ohio building authority on obligations.

(4) "Capital facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, within the state, and any one, part of, or combination of the foregoing, for housing of branches and agencies of state government, including capital facilities for the purpose of housing personnel, equipment, or functions, or any combination

thereof that the state agencies are responsible for housing, for 6731
which the Ohio building authority is authorized to issue 6732
obligations pursuant to Chapter 152. of the Revised Code, and 6733
includes storage and parking facilities related to such capital 6734
facilities. For purposes of sections 152.10 to 152.15 of the 6735
Revised Code, "capital facilities" includes community or technical 6736
college capital facilities. 6737

(5) "Cost of capital facilities" means the costs of 6738
assessing, planning, acquiring, constructing, reconstructing, 6739
rehabilitating, remodeling, renovating, enlarging, improving, 6740
altering, maintaining, equipping, furnishing, repairing, painting, 6741
decorating, managing, or operating capital facilities, and the 6742
financing thereof, including the cost of clearance and preparation 6743
of the site and of any land to be used in connection with capital 6744
facilities, the cost of participating in capital facilities 6745
pursuant to section 152.33 of the Revised Code, the cost of any 6746
indemnity and surety bonds and premiums on insurance, all related 6747
direct administrative expenses and allocable portions of direct 6748
costs of the authority and lessee state agencies, cost of 6749
engineering and architectural services, designs, plans, 6750
specifications, surveys, and estimates of cost, legal fees, fees 6751
and expenses of trustees, depositories, and paying agents for the 6752
obligations, cost of issuance of the obligations and financing 6753
charges and fees and expenses of financial advisers and 6754
consultants in connection therewith, interest on obligations from 6755
the date thereof to the time when interest is to be covered from 6756
sources other than proceeds of obligations, amounts that represent 6757
the portion of investment earnings to be rebated or to be paid to 6758
the federal government in order to maintain the exclusion from 6759
gross income for federal income tax purposes of interest on those 6760
obligations pursuant to section 148(f) of the Internal Revenue 6761
Code, amounts necessary to establish reserves as required by the 6762
resolutions or the obligations, trust agreements, or indentures, 6763

costs of audits, the reimbursement of all moneys advanced or 6764
applied by or borrowed from any governmental entity, whether to or 6765
by the authority or others, from whatever source provided, for the 6766
payment of any item or items of cost of the capital facilities, 6767
any share of the cost undertaken by the authority pursuant to 6768
arrangements made with governmental entities under division (J) of 6769
section 152.21 of the Revised Code, and all other expenses 6770
necessary or incident to assessing, planning, or determining the 6771
feasibility or practicability with respect to capital facilities, 6772
and such other expenses as may be necessary or incident to the 6773
assessment, planning, acquisition, construction, reconstruction, 6774
rehabilitation, remodeling, renovation, enlargement, improvement, 6775
alteration, maintenance, equipment, furnishing, repair, painting, 6776
decoration, management, or operation of capital facilities, the 6777
financing thereof and the placing of the same in use and 6778
operation, including any one, part of, or combination of such 6779
classes of costs and expenses. 6780

(6) "Governmental entity" means any state agency, municipal 6781
corporation, county, township, school district, and any other 6782
political subdivision or special district in this state 6783
established pursuant to law, and, except where otherwise 6784
indicated, also means the United States or any of the states or 6785
any department, division, or agency thereof, and any agency, 6786
commission, or authority established pursuant to an interstate 6787
compact or agreement. 6788

(7) "Governing body" means: 6789

(a) In the case of a county, the board of county 6790
commissioners or other legislative authority; in the case of a 6791
municipal corporation, the legislative authority; in the case of a 6792
township, the board of township trustees; in the case of a school 6793
district, the board of education; 6794

(b) In the case of any other governmental entity, the 6795

officer, board, commission, authority, or other body having the 6796
general management of the entity or having jurisdiction or 6797
authority in the particular circumstances. 6798

(8) "Available receipts" means fees, charges, revenues, 6799
grants, subsidies, income from the investment of moneys, proceeds 6800
from the sale of goods or services, and all other revenues or 6801
receipts received by or on behalf of any state agency for which 6802
capital facilities are financed with obligations issued under 6803
Chapter 152. of the Revised Code, any state agency participating 6804
in capital facilities pursuant to section 152.33 of the Revised 6805
Code, or any state agency by which the capital facilities are 6806
constructed or financed; revenues or receipts derived by the 6807
authority from the operation, leasing, or other disposition of 6808
capital facilities, and the proceeds of obligations issued under 6809
Chapter 152. of the Revised Code; and also any moneys appropriated 6810
by a governmental entity, gifts, grants, donations, and pledges, 6811
and receipts therefrom, available for the payment of bond service 6812
charges on such obligations. 6813

(9) "Available community or technical college receipts" means 6814
all money received by a community or technical college or 6815
community or technical college district, including income, 6816
revenues, and receipts from the operation, ownership, or control 6817
of facilities, grants, gifts, donations, and pledges and receipts 6818
therefrom, receipts from fees and charges, the allocated state 6819
share of instruction as defined in section ~~3333.90~~ 3333.59 of the 6820
Revised Code, and the proceeds of the sale of obligations, 6821
including proceeds of obligations issued to refund obligations 6822
previously issued, but excluding any special fee, and receipts 6823
therefrom, charged pursuant to division (D) of section 154.21 of 6824
the Revised Code. 6825

(10) "Community or technical college," "college," "community 6826
or technical college district," and "district" have the same 6827

meanings as in section ~~3333.90~~ 3333.59 of the Revised Code. 6828

(11) "Community or technical college capital facilities" 6829
means auxiliary facilities, education facilities, and housing and 6830
dining facilities, as those terms are defined in section 3345.12 6831
of the Revised Code, to the extent permitted to be financed by the 6832
issuance of obligations under division (A)(2) of section 3357.112 6833
of the Revised Code, that are authorized by sections 3354.121, 6834
3357.112, and 3358.10 of the Revised Code to be financed by 6835
obligations issued by a community or technical college district, 6836
and for which the Ohio building authority is authorized to issue 6837
obligations pursuant to Chapter 152. of the Revised Code, and 6838
includes any one, part of, or any combination of the foregoing, 6839
and further includes site improvements, utilities, machinery, 6840
furnishings, and any separate or connected buildings, structures, 6841
improvements, sites, open space and green space areas, utilities, 6842
or equipment to be used in, or in connection with the operation or 6843
maintenance of, or supplementing or otherwise related to the 6844
services or facilities to be provided by, such facilities. 6845

(12) "Cost of community or technical college capital 6846
facilities" means the costs of acquiring, constructing, 6847
reconstructing, rehabilitating, remodeling, renovating, enlarging, 6848
improving, equipping, or furnishing community or technical college 6849
capital facilities, and the financing thereof, including the cost 6850
of clearance and preparation of the site and of any land to be 6851
used in connection with community or technical college capital 6852
facilities, the cost of any indemnity and surety bonds and 6853
premiums on insurance, all related direct administrative expenses 6854
and allocable portions of direct costs of the authority, community 6855
or technical college or community or technical college district, 6856
cost of engineering, architectural services, design, plans, 6857
specifications and surveys, estimates of cost, legal fees, fees 6858
and expenses of trustees, depositories, bond registrars, and 6859

paying agents for the obligations, cost of issuance of the 6860
obligations and financing costs and fees and expenses of financial 6861
advisers and consultants in connection therewith, interest on the 6862
obligations from the date thereof to the time when interest is to 6863
be covered by available receipts or other sources other than 6864
proceeds of the obligations, amounts that represent the portion of 6865
investment earnings to be rebated or to be paid to the federal 6866
government in order to maintain the exclusion from gross income 6867
for federal income tax purposes of interest on those obligations 6868
pursuant to section 148(f) of the Internal Revenue Code, amounts 6869
necessary to establish reserves as required by the bond 6870
proceedings, costs of audits, the reimbursements of all moneys 6871
advanced or applied by or borrowed from the community or technical 6872
college, community or technical college district, or others, from 6873
whatever source provided, including any temporary advances from 6874
state appropriations, for the payment of any item or items of cost 6875
of community or technical college facilities, and all other 6876
expenses necessary or incident to planning or determining 6877
feasibility or practicability with respect to such facilities, and 6878
such other expenses as may be necessary or incident to the 6879
acquisition, construction, reconstruction, rehabilitation, 6880
remodeling, renovation, enlargement, improvement, equipment, and 6881
furnishing of community or technical college capital facilities, 6882
the financing thereof and the placing of them in use and 6883
operation, including any one, part of, or combination of such 6884
classes of costs and expenses. 6885

(B) Pursuant to the powers granted to the general assembly 6886
under Section 2i of Article VIII, Ohio Constitution, to authorize 6887
the issuance of revenue obligations and other obligations, the 6888
owners or holders of which are not given the right to have excises 6889
or taxes levied by the general assembly for the payment of 6890
principal thereof or interest thereon, the Ohio building authority 6891
may issue obligations, in accordance with Chapter 152. of the 6892

Revised Code, and shall cause the net proceeds thereof, after any 6893
deposits of accrued interest for the payment of bond service 6894
charges and after any deposit of all or such lesser portion as the 6895
authority may direct of the premium received upon the sale of 6896
those obligations for the payment of the bond service charges, to 6897
be applied to the costs of capital facilities designated by or 6898
pursuant to act of the general assembly for housing state agencies 6899
as authorized by Chapter 152. of the Revised Code. The authority 6900
shall provide by resolution for the issuance of such obligations. 6901
The bond service charges and all other payments required to be 6902
made by the trust agreement or indenture securing such obligations 6903
shall be payable solely from available receipts of the authority 6904
pledged thereto as provided in such resolution. The available 6905
receipts pledged and thereafter received by the authority are 6906
immediately subject to the lien of such pledge without any 6907
physical delivery thereof or further act, and the lien of any such 6908
pledge is valid and binding against all parties having claims of 6909
any kind against the authority, irrespective of whether those 6910
parties have notice thereof, and creates a perfected security 6911
interest for all purposes of Chapter 1309. of the Revised Code and 6912
a perfected lien for purposes of any real property interest, all 6913
without the necessity for separation or delivery of funds or for 6914
the filing or recording of the resolution, trust agreement, 6915
indenture, or other agreement by which such pledge is created or 6916
any certificate, statement, or other document with respect 6917
thereto; and the pledge of such available receipts is effective 6918
and the money therefrom and thereof may be applied to the purposes 6919
for which pledged. Every pledge, and every covenant and agreement 6920
made with respect to the pledge, made in the resolution may 6921
therein be extended to the benefit of the owners and holders of 6922
obligations authorized by Chapter 152. of the Revised Code, the 6923
net proceeds of which are to be applied to the costs of capital 6924
facilities, and to any trustee therefor, for the further securing 6925

of the payment of the bond service charges, and all or any rights 6926
under any agreement or lease made under this section may be 6927
assigned for such purpose. Obligations may be issued at one time 6928
or from time to time, and each issue shall be dated, shall mature 6929
at such time or times as determined by the authority not exceeding 6930
forty years from the date of issue, and may be redeemable before 6931
maturity at the option of the authority at such price or prices 6932
and under such terms and conditions as are fixed by the authority 6933
prior to the issuance of the obligations. The authority shall 6934
determine the form of the obligations, fix their denominations, 6935
establish their interest rate or rates, which may be a variable 6936
rate or rates, or the maximum interest rate, and establish within 6937
or without this state a place or places of payment of bond service 6938
charges. 6939

(C) The obligations shall be signed by the authority 6940
chairperson, vice-chairperson, and secretary-treasurer, and the 6941
authority seal shall be affixed. The signatures may be facsimile 6942
signatures and the seal affixed may be a facsimile seal, as 6943
provided by resolution of the authority. Any coupons attached may 6944
bear the facsimile signature of the chairperson. In case any 6945
officer who has signed any obligations, or caused the officer's 6946
facsimile signature to be affixed thereto, ceases to be such 6947
officer before such obligations have been delivered, such 6948
obligations may, nevertheless, be issued and delivered as though 6949
the person who had signed the obligations or caused the person's 6950
facsimile signature to be affixed thereto had not ceased to be 6951
such officer. 6952

Any obligations may be executed on behalf of the authority by 6953
an officer who, on the date of execution, is the proper officer 6954
although on the date of such obligations such person was not the 6955
proper officer. 6956

(D) All obligations issued by the authority shall have all 6957

the qualities and incidents of negotiable instruments and may be 6958
issued in coupon or in registered form, or both, as the authority 6959
determines. Provision may be made for the registration of any 6960
obligations with coupons attached thereto as to principal alone or 6961
as to both principal and interest, their exchange for obligations 6962
so registered, and for the conversion or reconversion into 6963
obligations with coupons attached thereto of any obligations 6964
registered as to both principal and interest, and for reasonable 6965
charges for such registration, exchange, conversion, and 6966
reconversion. The authority may sell its obligations in any manner 6967
and for such prices as it determines, except that the authority 6968
shall sell obligations sold at public or private sale in 6969
accordance with section 152.091 of the Revised Code. 6970

(E) The obligations of the authority, principal, interest, 6971
and any proceeds from their sale or transfer, are exempt from all 6972
taxation within this state. 6973

(F) The authority is authorized to issue revenue obligations 6974
and other obligations under Section 2i of Article VIII, Ohio 6975
Constitution, for the purpose of paying the cost of capital 6976
facilities for housing of branches and agencies of state 6977
government, including capital facilities for the purpose of 6978
housing personnel, equipment, or functions, or any combination 6979
thereof that the state agencies are responsible for housing, as 6980
are authorized by Chapter 152. of the Revised Code, and that are 6981
authorized by the general assembly by the appropriation of lease 6982
payments or other moneys for such capital facilities or by any 6983
other act of the general assembly, but not including the 6984
appropriation of moneys for feasibility studies for such capital 6985
facilities. This division does not authorize the authority to 6986
issue obligations pursuant to Section 2i of Article VIII, Ohio 6987
Constitution, to pay the cost of capital facilities for mental 6988
hygiene and retardation, parks and recreation, or state-supported 6989

or state-assisted institutions of higher education. 6990

(G) The authority is authorized to issue revenue obligations 6991
under Section 2i of Article VIII, Ohio Constitution, on behalf of 6992
a community or technical college district and shall cause the net 6993
proceeds thereof, after any deposits of accrued interest for the 6994
payment of bond service charges and after any deposit of all or 6995
such lesser portion as the authority may direct of the premium 6996
received upon the sale of those obligations for the payment of the 6997
bond service charges, to be applied to the cost of community or 6998
technical college capital facilities, provided that the issuance 6999
of such obligations is subject to the execution of a written 7000
agreement in accordance with division (C) of section ~~3333.90~~ 7001
3333.59 of the Revised Code for the withholding and depositing of 7002
funds otherwise due the district, or the college it operates, in 7003
respect of its allocated state share of instruction. 7004

The authority shall provide by resolution for the issuance of 7005
such obligations. The bond service charges and all other payments 7006
required to be made by the trust agreement or indenture securing 7007
the obligations shall be payable solely from available community 7008
or technical college receipts pledged thereto as provided in the 7009
resolution. The available community or technical college receipts 7010
pledged and thereafter received by the authority are immediately 7011
subject to the lien of such pledge without any physical delivery 7012
thereof or further act, and the lien of any such pledge is valid 7013
and binding against all parties having claims of any kind against 7014
the authority, irrespective of whether those parties have notice 7015
thereof, and creates a perfected security interest for all 7016
purposes of Chapter 1309. of the Revised Code and a perfected lien 7017
for purposes of any real property interest, all without the 7018
necessity for separation or delivery of funds or for the filing or 7019
recording of the resolution, trust agreement, indenture, or other 7020
agreement by which such pledge is created or any certificate, 7021

statement, or other document with respect thereto; and the pledge 7022
of such available community or technical college receipts is 7023
effective and the money therefrom and thereof may be applied to 7024
the purposes for which pledged. Every pledge, and every covenant 7025
and agreement made with respect to the pledge, made in the 7026
resolution may therein be extended to the benefit of the owners 7027
and holders of obligations authorized by this division, and to any 7028
trustee therefor, for the further securing of the payment of the 7029
bond service charges, and all or any rights under any agreement or 7030
lease made under this section may be assigned for such purpose. 7031
Obligations may be issued at one time or from time to time, and 7032
each issue shall be dated, shall mature at such time or times as 7033
determined by the authority not exceeding forty years from the 7034
date of issue, and may be redeemable before maturity at the option 7035
of the authority at such price or prices and under such terms and 7036
conditions as are fixed by the authority prior to the issuance of 7037
the obligations. The authority shall determine the form of the 7038
obligations, fix their denominations, establish their interest 7039
rate or rates, which may be a variable rate or rates, or the 7040
maximum interest rate, and establish within or without this state 7041
a place or places of payment of bond service charges. 7042

Sec. 152.18. Whenever the Ohio building authority constructs, 7043
reconstructs, rehabilitates, remodels, renovates, enlarges, 7044
improves, alters, maintains, equips, furnishes, repairs, paints, 7045
or decorates capital facilities pursuant to section 152.19, 7046
152.21, or 152.31 of the Revised Code or buildings, facilities, 7047
and other properties for use and occupancy of persons pursuant to 7048
section 152.04 of the Revised Code, the authority shall make the 7049
necessary plans and specifications, and shall advertise for bids 7050
for all work to be placed under contract once a week for two 7051
consecutive weeks in a newspaper of general circulation in the 7052
county within which the work is to be done, and shall award the 7053

contract to the lowest responsive and responsible bidder in 7054
accordance with section 9.312 of the Revised Code. When the 7055
authority determines, subject to approval by the controlling 7056
board, that a real and present emergency exists or if the cost of 7057
such a contract does not exceed fifty thousand dollars, such a 7058
contract may be awarded without advertising and receipt of bids. A 7059
bid guaranty pursuant to sections 153.54 to 153.571 of the Revised 7060
Code shall be required for any contract under this section. 7061

In all other cases of capital facilities financed by the 7062
authority, the construction, reconstruction, ~~rehabilitation,~~ 7063
~~remodeling, renovation,~~ enlargement, improvement, alteration, 7064
~~maintenance, equipping, furnishing,~~ repair, painting, or 7065
decoration of capital facilities by or for the state or any 7066
governmental entity shall be the responsibility of the ~~department~~ 7067
~~of administrative services~~ Ohio facilities construction commission 7068
or, with the consent of the ~~department of administrative services~~ 7069
Ohio facilities construction commission, shall be the 7070
responsibility of the state agency using the capital facility, or 7071
the governmental entity with which a state agency is participating 7072
pursuant to section 152.33 of the Revised Code, and shall be 7073
undertaken by the ~~department~~ commission in compliance with Chapter 7074
153. of the Revised Code, or by such state agency or governmental 7075
entity in accordance with otherwise applicable law. The 7076
rehabilitation, remodeling, renovation, maintenance, equipping, or 7077
furnishing of capital facilities by or for the state or any 7078
governmental entity shall be the responsibility of the department 7079
of administrative services or, with the consent of the department, 7080
the state agency or other governmental entity that is using the 7081
capital facility. 7082

Sec. 152.24. (A) Except as otherwise provided with respect to 7083
leasing of capital facilities in sections 152.241, 152.242, 7084
152.31, and 152.33 of the Revised Code, the department of 7085

administrative services or, with the consent of the department of 7086
administrative services, the state agency using an office facility 7087
and related storage and parking facilities, or participating in 7088
such facilities pursuant to section 152.33 of the Revised Code, 7089
shall lease any office facility and related storage and parking 7090
facility acquired, purchased, constructed, reconstructed, 7091
rehabilitated, remodeled, renovated, enlarged, improved, altered, 7092
operated, maintained, equipped, furnished, repaired, painted, 7093
decorated, or financed by the Ohio building authority for housing 7094
any state agencies. An agreement between the authority and the 7095
department of administrative services or such using or 7096
participating agency may provide for the transfer of the property 7097
to the state after bonds and notes issued by the authority for the 7098
purpose of the acquisition, purchase, construction, 7099
reconstruction, rehabilitation, remodeling, renovation, 7100
enlargement, improvement, alteration, equipping, furnishing, 7101
repair, painting, decorating, or financing of such building or 7102
facility have been repaid. A lease between the authority and the 7103
department of administrative services or a using or participating 7104
agency shall be for a period not exceeding the then current 7105
two-year period for which appropriations have been made by the 7106
general assembly to the department of administrative services and 7107
the state agencies which will occupy or participate in the office 7108
facility and related storage and parking facility being leased, 7109
and such lease may contain such other terms as the department of 7110
administrative services, or a using or participating agency, and 7111
the authority agree notwithstanding any other provision of law, 7112
including provision that rental payments in amounts at least 7113
sufficient to pay bond service charges payable during the current 7114
two-year lease term shall be an absolute and unconditional 7115
obligation of the department of administrative services, or the 7116
using or participating agency, independent of all other duties 7117
under the lease without setoff or deduction or any other similar 7118

rights or defenses. Such an agreement may provide for renewal of a 7119
lease at the end of each term for another term, not exceeding two 7120
years, provided that no renewal shall be effective until the 7121
effective date of an appropriation enacted by the general assembly 7122
from which the department of administrative services, or the using 7123
or participating agency, may lawfully pay rentals under such 7124
lease. For purposes of this section, the term "lease" may include, 7125
without limitation, any agreement between the department of 7126
administrative services, or the using or participating agency, and 7127
the authority with respect to any costs of capital facilities to 7128
be incurred prior to land acquisition. 7129

(B) If the director of administrative services or the 7130
director of a state agency using or participating in an office 7131
facility and related storage and parking facility certifies that 7132
space in such facility acquired, purchased, constructed, 7133
reconstructed, rehabilitated, remodeled, renovated, enlarged, 7134
improved, altered, operated, maintained, equipped, furnished, 7135
repaired, painted, decorated, or financed by the authority has 7136
become unnecessary for state use, the authority may lease any 7137
excess space in such facility and related storage and parking 7138
facility to any governmental entity. 7139

(C) If space in any office facility leased by the authority 7140
to the department of administrative services is not immediately 7141
necessary for state use, the department of administrative services 7142
may exercise its authority under division (A)~~(9)~~(5) of section 7143
123.01 of the Revised Code with respect to such space. 7144

(D) Capital facilities acquired, purchased, constructed, 7145
reconstructed, rehabilitated, remodeled, renovated, enlarged, 7146
improved, altered, operated, maintained, equipped, furnished, 7147
repaired, painted, decorated, or financed by the Ohio building 7148
authority, other than any office facility and related storage and 7149
parking facility required to be leased pursuant to division (A) of 7150

this section, shall be leased to the department of administrative 7151
services, the state agency using the capital facilities, or the 7152
state agency participating in the capital facilities pursuant to 7153
section 152.33 of the Revised Code. The department of 7154
administrative services or the using or participating state agency 7155
may sublease such capital facilities to other state agencies or 7156
other governmental entities. Such parties, including other state 7157
agencies or state-supported or state-assisted institutions of 7158
higher education, may make other agreements for the use, 7159
construction, or operation of such capital facilities in any 7160
manner permitted by the lease or agreement with the authority and 7161
for the charging, collection, and deposit of such revenues and 7162
receipts of the using or participating state agency constituting 7163
available receipts, all upon such terms and conditions as the 7164
parties may agree upon and pursuant to this chapter 7165
notwithstanding other provisions of law affecting the leasing, 7166
acquisition, operation, or disposition of capital facilities by 7167
such parties. Any such lease between the authority and the 7168
department of administrative services or a using or participating 7169
state agency shall be for a period not to exceed the then current 7170
two-year period for which appropriations have been made by the 7171
general assembly to the department of administrative services or 7172
such using or participating state agency. The lease between the 7173
authority and the department of administrative services or the 7174
using or participating state agency may provide for renewal of the 7175
lease at the end of each term for another term, not exceeding two 7176
years, but no renewal shall be effective until the effective date 7177
of an appropriation enacted by the general assembly from which the 7178
department of administrative services or the using or 7179
participating state agency may lawfully pay rentals under such 7180
lease. Any such leases, subleases, or agreements may set forth the 7181
responsibilities of the authority, state agencies, 7182
state-supported, or state-assisted institutions of higher 7183

education, or other governmental entities as to the financing, 7184
assessment, planning, acquisition, purchase, construction, 7185
reconstruction, rehabilitation, remodeling, renovation, 7186
enlargement, improvement, alteration, subleasing, management, 7187
operation, maintenance, equipping, furnishing, repair, painting, 7188
decorating, and insuring of such capital facilities and other 7189
terms and conditions applicable thereto, and any other provisions 7190
mutually agreed upon for the purposes of this chapter. Promptly 7191
upon execution thereof, a signed or conformed copy of each such 7192
lease or sublease or agreement, and any supplement thereto, 7193
between the authority and a governmental entity shall be filed by 7194
the authority with the department of administrative services and 7195
the director of budget and management, and, promptly upon 7196
execution thereof, a signed or conformed copy of each such 7197
sublease or agreement between two governmental entities, not 7198
including the authority, shall be filed with the authority and the 7199
director of budget and management. For purposes of this section, 7200
the term "lease" may include, without limitation, any agreement 7201
between the department of administrative services or the state 7202
agency using or participating in such capital facilities and the 7203
authority with respect to any costs of capital facilities to be 7204
incurred prior to land acquisition. 7205

(E) The transfer of tangible personal property by lease under 7206
authority of this chapter is not a sale as used in Chapter 5739. 7207
of the Revised Code. Any agreement of a governmental entity to 7208
make rental, use, or other payments or payment of purchase price, 7209
in installments or otherwise, or repayments to or on account of 7210
the authority and the obligations issued by the authority, shall 7211
not be deemed to constitute indebtedness, bonded or otherwise, or 7212
bonds, notes, or other evidence of indebtedness of such 7213
governmental entity for the purpose of Chapter 133. of the Revised 7214
Code or any other purpose; such leases and agreements requiring 7215
payments beyond the current fiscal year are continuing contracts 7216

for the purposes of sections 5705.41 and 5705.44 of the Revised Code. 7217
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(F) Any agreement between the department of administrative services or the state agency using or participating in such capital facilities and the authority that includes provision for the use of space by such using or participating state agency or the department of administrative services, even if executed prior to land acquisition or completion of construction, improvements, or financing, shall be a lease for purposes of this chapter and for all other purposes. No such lease need be recorded or recordable for purposes of determining its validity or legal sufficiency. 7219
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Sec. 153.01. (A) Whenever any building or structure for the use of the state or any institution supported in whole or in part by the state or in or upon the public works of the state that is administered by the ~~director of administrative services~~ Ohio facilities construction commission or by any other state officer or state agency authorized by law to administer a project, including an educational institution listed in section 3345.50 of the Revised Code, is to be erected or constructed, whenever additions, alterations, or structural or other improvements are to be made, or whenever heating, cooling, or ventilating plants or other equipment is to be installed or material supplied therefor, the estimated cost of which amounts to two hundred thousand dollars or more, or the amount determined pursuant to section 153.53 of the Revised Code or more, each officer, board, or other authority upon which devolves the duty of constructing, erecting, altering, or installing the same, referred to in sections 153.01 to 153.60 of the Revised Code as the public authority, shall cause to be made, by an architect or engineer whose contract of employment shall be prepared and approved by the attorney general, the following: 7229
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| (1) Full and accurate plans, suitable for the use of mechanics and other builders in the construction, improvement, addition, alteration, or installation; | 7249 7250 7251 |
| (2) Details to scale and full-sized, so drawn and represented as to be easily understood; | 7252 7253 |
| (3) Definite and complete specifications of the work to be performed, together with directions that will enable a competent mechanic or other builder to carry them out and afford bidders all needful information; | 7254 7255 7256 7257 |
| (4) A full and accurate estimate of each item of expense and the aggregate cost of those items of expense; | 7258 7259 |
| (5) A life-cycle cost analysis; | 7260 |
| (6) Further data as may be required by the department of administrative services <u>Ohio facilities construction commission</u> . | 7261 7262 |
| (B) Division (A) of this section shall not be required with respect to a construction management contract entered into with a construction manager at risk as described in section 9.334 of the Revised Code or a design-build contract entered into with a design-build firm as described in section 153.693 of the Revised Code. | 7263 7264 7265 7266 7267 7268 |
| Sec. 153.011. (A) Except as provided in division (D) of this section, whenever any building or structure, including highway improvements, in whole or in part supported by state capital funds, including moneys from the education facilities trust fund, is to be erected or constructed, or whenever additions, alterations, or structural or other improvements are to be made, if any steel products are to be purchased for or provided in the construction, repair, or improvement project, only steel products as defined in division (F) of this section shall be purchased for or provided in the project. | 7269 7270 7271 7272 7273 7274 7275 7276 7277 7278 |

(B)(1) No person shall purchase or provide steel products in violation of division (A) of this section. 7279
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(2) Notwithstanding division (B) of section 153.99 of the Revised Code, no person who purchases steel products in violation of division (A) of this section shall be held liable in a civil action commenced under division (C) of this section, or pay a civil penalty under division (B) of section 153.99 of the Revised Code, if that person can demonstrate the person's compliance with division (E) of this section. 7281
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(C) Whenever the executive director of ~~administrative services~~ the Ohio facilities construction commission has reasonable cause to believe that any person has purchased or provided steel products in violation of division (A) of this section, the executive director shall conduct an investigation to determine whether the person has purchased or provided or is purchasing or providing steel products in violation of division (A) of this section. Upon conducting the investigation, if the executive director finds that the person has purchased or provided or is purchasing or providing steel products in violation of division (A) of this section, the executive director shall request the attorney general to commence a civil action under this section against the person for violating division (A) of this section. The remedy provided in this section is concurrent with any other remedy provided in this chapter, and the existence or exercise of one remedy does not prevent the exercise of any other. Upon collection of the civil penalty under division (B) of section 153.99 of the Revised Code, pursuant to an action authorized under this section, the attorney general shall pay the money collected to the treasurer of the board of education of the city, local, or exempted village school district and joint vocational school district, if one exists, in which the construction, repair, or improvement project for which the steel products used in violation 7288
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of division (A) of this section is located. The treasurer shall 7311
deposit the civil penalty in equal amounts into the school 7312
district's general fund and the joint vocational school district's 7313
general fund. If a joint vocational school district does not exist 7314
where the violation occurred, then the entire sum of the civil 7315
penalty shall be deposited into the school district's general 7316
fund. 7317

(D) Pursuant to section 5525.21 of the Revised Code, the 7318
director of transportation may authorize the purchase or provision 7319
or both of a minimal amount of foreign steel products for use in 7320
contracts for public bridge projects. 7321

The executive director of ~~administrative services~~ the Ohio 7322
facilities construction commission may waive the requirements of 7323
division (A) of this section if the executive director determines 7324
that either division (A) or (B) of section 5525.21 of the Revised 7325
Code is true in connection with a public bridge project. The 7326
executive director shall issue this determination in writing. 7327

(E) The following notice shall be included in boldface type 7328
and capital letters in all bid notifications and specifications 7329
between all parties to any contract authorized under Chapter 153. 7330
of the Revised Code or subject to this section and section 153.99 7331
of the Revised Code: "Domestic steel use requirements as specified 7332
in section 153.011 of the Revised Code apply to this project. 7333
Copies of section 153.011 of the Revised Code can be obtained from 7334
~~any of the offices~~ office of the ~~department of administrative~~ 7335
~~services~~ Ohio facilities construction commission." 7336

(F) As used in this section: 7337

(1) "Steel products" means products rolled, formed, shaped, 7338
drawn, extruded, forged, cast, fabricated or otherwise similarly 7339
processed, or processed by a combination of two or more of such 7340
operations, and used for load-bearing structural purposes, from 7341

steel made in the United States by the open hearth, basic oxygen, 7342
electric furnace, bessemer or other steel making process. 7343

(2) "United States" means the United States of America and 7344
includes all territory, continental or insular, subject to the 7345
jurisdiction of the United States. 7346

Sec. 153.013. If a project for the construction, alteration, 7347
or other improvement of a building or structure is administered by 7348
the executive director of ~~administrative services~~ the Ohio 7349
facilities construction commission or by another state agency 7350
authorized to administer a project under this chapter, if the 7351
project is located in a municipal corporation with a population of 7352
at least four hundred thousand that is in a county with a 7353
population of at least one million two hundred thousand, and if a 7354
political subdivision contributes at least one hundred thousand 7355
dollars to the project, then a contractor for the project shall 7356
comply with regulations or ordinances of the political subdivision 7357
that are in effect before July 1, 2009, and that specifically 7358
relate to the employment of residents and local businesses of the 7359
political subdivision in the performance of the work of the 7360
project, and such ordinances or regulations shall be included by 7361
reference unambiguously in the contract between the administering 7362
state agency and the contractor for the project. 7363

Sec. 153.02. (A) The executive director of ~~administrative~~ 7364
~~services, on the director's own initiative or upon request of the~~ 7365
Ohio ~~school~~ facilities construction commission, may debar a 7366
contractor from contract awards for public improvements as 7367
referred to in section 153.01 of the Revised Code or for projects 7368
as defined in section 3318.01 of the Revised Code, upon proof that 7369
the contractor has done any of the following: 7370

(1) Defaulted on a contract requiring the execution of a 7371

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| takeover agreement as set forth in division (B) of section 153.17 | 7372 |
| of the Revised Code; | 7373 |
| (2) Knowingly failed during the course of a contract to | 7374 |
| maintain the coverage required by the bureau of workers' | 7375 |
| compensation; | 7376 |
| (3) Knowingly failed during the course of a contract to | 7377 |
| maintain the contractor's drug-free workplace program as required | 7378 |
| by the contract; | 7379 |
| (4) Knowingly failed during the course of a contract to | 7380 |
| maintain insurance required by the contract or otherwise by law, | 7381 |
| resulting in a substantial loss to the owner, as owner is referred | 7382 |
| to in section 153.01 of the Revised Code, or to the commission and | 7383 |
| school district board, as provided in division (F) of section | 7384 |
| 3318.08 of the Revised Code; | 7385 |
| (5) Misrepresented the firm's qualifications in the selection | 7386 |
| process set forth in sections 153.65 to 153.71 or section 3318.10 | 7387 |
| of the Revised Code; | 7388 |
| (6) Been convicted of a criminal offense related to the | 7389 |
| application for or performance of any public or private contract, | 7390 |
| including, but not limited to, embezzlement, theft, forgery, | 7391 |
| bribery, falsification or destruction of records, receiving stolen | 7392 |
| property, and any other offense that directly reflects on the | 7393 |
| contractor's business integrity; | 7394 |
| (7) Been convicted of a criminal offense under state or | 7395 |
| federal antitrust laws; | 7396 |
| (8) Deliberately or willfully submitted false or misleading | 7397 |
| information in connection with the application for or performance | 7398 |
| of a public contract; | 7399 |
| (9) Been debarred from bidding on or participating in a | 7400 |
| contract with any state or federal agency. | 7401 |

(B) When the executive director reasonably believes that 7402
grounds for debarment exist, the executive director shall send the 7403
contractor a notice of proposed debarment indicating the grounds 7404
for the proposed debarment and the procedure for requesting a 7405
hearing on the proposed debarment. The hearing shall be conducted 7406
in accordance with Chapter 119. of the Revised Code. If the 7407
contractor does not respond with a request for a hearing in the 7408
manner specified in Chapter 119. of the Revised Code, the 7409
executive director shall issue the debarment decision without a 7410
hearing and shall notify the contractor of the decision by 7411
certified mail, return receipt requested. 7412

(C) The executive director shall determine the length of the 7413
debarment period and may rescind the debarment at any time upon 7414
notification to the contractor. During the period of debarment, 7415
the contractor is not eligible to bid for or participate in any 7416
contract for a public improvement as referred to in section 153.01 7417
of the Revised Code or for a project as defined in section 3318.01 7418
of the Revised Code. After the debarment period expires, the 7419
contractor shall be eligible to bid for and participate in such 7420
contracts. 7421

(D) The executive director, ~~through the office of the state~~ 7422
~~architect,~~ shall maintain a list of all contractors currently 7423
debarred under this section. Any governmental entity awarding a 7424
contract for construction of a public improvement or project may 7425
use a contractor's presence on the debarment list to determine 7426
whether a contractor is responsible or best under section 9.312 or 7427
any other section of the Revised Code in the award of a contract. 7428

Sec. 153.04. The plans, details, bills of material, 7429
specifications of work, estimates of cost in detail and in the 7430
aggregate, life-cycle cost analysis, form of bid, bid guaranty, 7431
and other data that may be required shall be prepared on such 7432

material and in such manner and form as are prescribed by the 7433
~~department of administrative services~~ Ohio facilities construction
commission. The life-cycle costs shall be a primary consideration 7434
in the selection of a design. The same shall be deposited and 7435
safely kept in the office of the owner as defined in section 7436
153.01 of the Revised Code as the property of the state. 7437
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Sec. 153.06. After the proceedings required by sections 7439
153.01 and 153.04 of the Revised Code have been complied with, the 7440
owner referred to in section 153.01 of the Revised Code shall give 7441
public notice of the time and place when and where bids will be 7442
received for performing the labor and furnishing the materials of 7443
such construction, improvement, alteration, addition, or 7444
installation, and a contract awarded, except for materials 7445
manufactured by the state or labor supplied by a county department 7446
of job and family services that may enter into the same. The form 7447
of bid approved by the ~~department of administrative services~~ Ohio
facilities construction commission shall be used, and a bid shall 7448
be invalid and not considered unless such form is used without 7449
change, alteration, or addition. Bidders may be permitted to bid 7450
upon all the branches of work and materials to be furnished and 7451
supplied, or upon any thereof, or alternately upon all or any 7452
thereof. 7453
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Sec. 153.07. The notice provided for in section 153.06 of the 7455
Revised Code shall be published once each week for three 7456
consecutive weeks in a newspaper of general circulation, or as 7457
provided in section 7.16 of the Revised Code, in the county where 7458
the activity for which bids are submitted is to occur and in such 7459
other newspapers as ordered by the ~~department of administrative~~ 7460
~~services~~ Ohio facilities construction commission, the last 7461
publication to be at least eight days preceding the day for 7462
opening the bids, and in such form and with such phraseology as 7463

the ~~department~~ commission orders. Copies of the plans, details, 7464
estimates of cost, and specifications shall be open to public 7465
inspection at all business hours between the day of the first 7466
publication and the day for opening the bids, at the office of the 7467
~~department~~ commission where the bids are received, and such other 7468
place as may be designated in such notice. 7469

Sec. 153.08. On the day and at the place named in the notice 7470
provided for in section 153.06 of the Revised Code, the owner 7471
referred to in section 153.01 of the Revised Code shall open the 7472
bids and shall publicly, with the assistance of the architect or 7473
engineer, immediately proceed to tabulate the bids upon duplicate 7474
sheets. The public bid opening may be broadcast by electronic 7475
means pursuant to rules established by the ~~director of~~ 7476
~~administrative services~~ Ohio facilities construction commission. A 7477
bid shall be invalid and not considered unless a bid guaranty 7478
meeting the requirements of section 153.54 of the Revised Code and 7479
in the form approved by the ~~department of administrative services~~ 7480
commission is filed with such bid. For a bid that is not filed 7481
electronically, the bid and bid guaranty shall be filed in one 7482
sealed envelope. If the bid and bid guaranty are filed 7483
electronically, they must be received electronically before the 7484
deadline published pursuant to section 153.06 of the Revised Code. 7485
For all bids filed electronically, the original, unaltered bid 7486
guaranty shall be made available to the public authority after the 7487
public bid opening. After investigation, which shall be completed 7488
within thirty days, the contract shall be awarded by such owner to 7489
the lowest responsive and responsible bidder in accordance with 7490
section 9.312 of the Revised Code. 7491

No contract shall be entered into until the industrial 7492
commission has certified that the person so awarded the contract 7493
has complied with sections 4123.01 to 4123.94 of the Revised Code, 7494
until, if the bidder so awarded the contract is a foreign 7495

corporation, the secretary of state has certified that such 7496
corporation is authorized to do business in this state, until, if 7497
the bidder so awarded the contract is a person nonresident of this 7498
state, such person has filed with the secretary of state a power 7499
of attorney designating the secretary of state as its agent for 7500
the purpose of accepting service of summons in any action brought 7501
under section 153.05 of the Revised Code or under sections 4123.01 7502
to 4123.94 of the Revised Code, and until the contract and bond, 7503
if any, are submitted to the attorney general and the attorney 7504
general's approval certified thereon. 7505

No contract shall be entered into unless the bidder possesses 7506
a valid certificate of compliance with affirmative action programs 7507
issued pursuant to section 9.47 of the Revised Code and dated no 7508
earlier than one hundred eighty days prior to the date fixed for 7509
the opening of bids for a particular project. 7510

Sec. 153.09. If in the opinion of the owner referred to in 7511
section 153.01 of the Revised Code, the award of a contract to the 7512
lowest responsive and responsible bidder is not in the best 7513
interests of the state, the owner may accept another bid so opened 7514
or reject all bids, and advertise for other bids. Such 7515
advertisement shall be for such time, in such form, and in such 7516
newspaper as the ~~department~~ Ohio facilities construction 7517
commission directs. All contracts shall provide that such owner 7518
may make any change in work or materials on the conditions and in 7519
the manner provided in sections 153.10 and 153.11 of the Revised 7520
Code. 7521

Sec. 153.11. Whenever the change referred to in section 7522
153.10 of the Revised Code is approved by the owner as defined in 7523
section 153.01 of the Revised Code, accepted in writing by the 7524
contractor, and filed, the same shall be considered as being a 7525
part of the original contract, and the bond theretofore executed 7526

shall be ~~held~~ increased or decreased accordingly to include and 7527
cover the ~~same~~ change in the contract. 7528

Sec. 153.12. (A) With respect to award of any contract for 7529
the construction, reconstruction, improvement, enlargement, 7530
alteration, repair, painting, or decoration of a public 7531
improvement made by the state, or any county, township, municipal 7532
corporation, school district, or other political subdivision, or 7533
any public board, commission, authority, instrumentality, or 7534
special purpose district of or in the state or a political 7535
subdivision or that is authorized by state law, the award, and 7536
execution of the contract, shall be made within sixty days after 7537
the date on which the bids are opened. The failure to award and 7538
execute the contract within sixty days invalidates the entire bid 7539
proceedings and all bids submitted, unless the time for awarding 7540
and executing the contract is extended by mutual consent of the 7541
owner or its representatives and the bidder whose bid the owner 7542
accepts and with respect to whom the owner subsequently awards and 7543
executes a contract. The public owners referred to in this section 7544
shall include, in the plans and specifications for the project for 7545
which bids are solicited, the estimate of cost. The bid for which 7546
the award is to be made shall be opened at the time and place 7547
named in the advertisement for bids, unless extended by the owner 7548
or its representative or unless, within seventy-two hours prior to 7549
the published time for the opening of bids, excluding Saturdays, 7550
Sundays, and legal holidays, any modification of the plans or 7551
specifications and estimates of cost for the project for which 7552
bids are solicited is issued and mailed or otherwise furnished to 7553
persons who have obtained plans or specifications for the project, 7554
for which the time for opening of bids shall be extended one week, 7555
with no further advertising of bids required. The contractor, upon 7556
request, is entitled to a notice to proceed with the work by the 7557
owner or its representative upon execution of the contract. No 7558

contract to which this section applies shall be entered into if 7559
the price of the contract, or, if the project involves multiple 7560
contracts where the total price of all contracts for the project, 7561
is in excess of ten per cent above the entire estimate thereof, 7562
nor shall the entire cost of the construction, reconstruction, 7563
repair, painting, decorating, improvement, alteration, addition, 7564
or installation, including changes and estimates of expenses for 7565
architects or engineers, exceed in the aggregate the amount 7566
authorized by law. 7567

The unit or lump sum price stated in the contract shall be 7568
used in determining the amount to be paid and shall constitute 7569
full and final compensation for all the work. 7570

Partial payment to the contractor for work performed under 7571
the lump sum price shall be based on a schedule prepared by the 7572
contractor and approved by the architect or engineer who shall 7573
apportion the lump sum price to the major components entering into 7574
or forming a part of the work under the lump sum price. 7575

Partial payments to the contractor for labor performed under 7576
either a unit or lump sum price contract shall be made at the rate 7577
of ninety-two per cent of the estimates prepared by the contractor 7578
and approved by the architect or engineer. All labor performed 7579
after the job is fifty per cent completed shall be paid for at the 7580
rate of one hundred per cent of the estimates submitted by the 7581
contractor and approved by the architect or engineer. 7582

The amounts and time of payments of any public improvements 7583
contract made by the state or any county, township, municipal 7584
corporation, school district, or other political subdivision, or 7585
any public board, commission, authority, instrumentality, or 7586
special purpose district of or in the state or a political 7587
subdivision or that is authorized by state law, except as provided 7588
in section 5525.19 of the Revised Code, shall be governed by this 7589
section and sections 153.13 and 153.14 of the Revised Code. If the 7590

time for awarding the contract is extended by mutual consent, or 7591
if the owner or its representative fails to issue a timely notice 7592
to proceed as required by this section, the owner or its 7593
representative shall issue a change order authorizing delay costs 7594
to the contractor, which does not invalidate the contract. The 7595
amount of such a change order to the owner shall be determined in 7596
accordance with the provisions of the contract for change orders 7597
or force accounts or, if no such provision is set forth in the 7598
contract, the cost to the owner shall be the contractor's actual 7599
costs including wages, labor costs other than wages, wage taxes, 7600
materials, equipment costs and rentals, insurance, and 7601
subcontracts attributable to the delay, plus a reasonable sum for 7602
overhead. In the event of a dispute between the owner and the 7603
contractor concerning such change order, procedures shall be 7604
commenced under the applicable terms of the contract, or, if the 7605
contract contains no provision for resolving the dispute, it shall 7606
be resolved pursuant to the procedures for arbitration in Chapter 7607
2711. of the Revised Code, except as provided in division (B) of 7608
this section. Nothing in this division shall be construed as a 7609
limitation upon the authority of the director of transportation 7610
granted in Chapter 5525. of the Revised Code. 7611

(B) If a dispute arises between the state and a contractor 7612
concerning the terms of a public improvement contract let by the 7613
state or concerning a breach of the contract, and after 7614
administrative remedies provided for in such contract and any 7615
alternative dispute resolution procedures provided in accordance 7616
with guidelines established by the executive director of 7617
~~administrative services~~ the Ohio facilities construction 7618
commission are exhausted, the contractor may bring an action to 7619
the court of claims in accordance with Chapter 2743. of the 7620
Revised Code. The state or the contractor may request the chief 7621
justice of the supreme court to appoint a referee or panel of 7622
referees in accordance with division (C)(3) of section 2743.03 of 7623

the Revised Code. As used in this division, "dispute" means a 7624
disagreement between the state and the contractor concerning a 7625
public improvement contract let by the state. 7626

Sec. 153.14. For the construction of those projects, 7627
improvements, and public buildings over which the ~~director of~~ 7628
~~administrative services~~ Ohio facilities construction commission 7629
has general supervision pursuant to section ~~123.01~~ 123.21 of the 7630
Revised Code, the estimates referred to in section 153.13 of the 7631
Revised Code shall be filed with the executive director by the 7632
owner referred to in section 153.01 or 153.12 of the Revised Code. 7633
Upon completion of a project referred to in section 153.13 of the 7634
Revised Code or any divisible part thereof, the maintenance and 7635
repair of such project or divisible part shall be assumed by the 7636
owner referred to in section 153.01 or 153.12 of the Revised Code. 7637

In addition to all other payments on account of work 7638
performed, there shall be allowed by the owner referred to in 7639
section 153.01 or 153.12 of the Revised Code and paid to the 7640
contractor a sum at the rate of ninety-two per cent of the invoice 7641
costs, not to exceed the bid price in a unit price contract, of 7642
material delivered on the site of the work, or a railroad station, 7643
siding, or other point in the vicinity of the work, or other 7644
approved storage site, provided such materials have been inspected 7645
and found to meet the specifications. The balance of such invoiced 7646
value shall be paid when such material is incorporated into and 7647
becomes a part of such building, construction, addition, 7648
improvement, alteration, or installation. When an estimate is 7649
allowed on account of material delivered on the site of the work 7650
or in the vicinity thereof or under the possession and control of 7651
the contractor but not yet incorporated therein, such material 7652
shall become the property of the owner under the contract, but if 7653
such material is stolen, destroyed, or damaged by casualty before 7654
being used, the contractor shall be required to replace it at ~~his~~ 7655

the contractor's own expense. 7656

When the rate of work and amounts involved are so large that 7657
it is considered advisable by the owner or contractor, estimates 7658
and payments shall be made twice each month. 7659

Payment on approved estimates filed with the owner or its 7660
representative shall be made within thirty days. Upon the failure 7661
of the owner or its representative to make such payments within 7662
thirty days, or upon an unauthorized withholding of retainage, 7663
there shall be allowed to the contractor, in addition to any other 7664
remedies allowed by law, interest on such moneys not paid within 7665
thirty days. Interest on the unauthorized withholding of retainage 7666
shall be in addition to any interest earned in the escrow account 7667
set forth in section 153.13 of the Revised Code. The rate of such 7668
interest shall be the average of the prime rate established at the 7669
commercial banks in the city of over one hundred thousand 7670
population that is nearest the construction project. Nothing in 7671
this section shall be construed as a limitation upon the authority 7672
of the director of transportation granted in Chapter 5525. of the 7673
Revised Code. 7674

Sec. 153.16. (A) The executive director of ~~administrative~~ 7675
~~services~~ the Ohio facilities construction commission shall 7676
establish policy and procedure guidelines for contract documents 7677
in conjunction with the administration of public works contracts 7678
that the state or any institution supported in whole or in part by 7679
the state enters into for any project subject to sections 153.01 7680
to 153.11 of the Revised Code. 7681

(B) Notwithstanding any contract provision to the contrary, 7682
any claim submitted under a public works contract that the state 7683
or any institution supported in whole or in part by the state 7684
enters into for any project subject to sections 153.01 to 153.11 7685
of the Revised Code shall be resolved within one hundred twenty 7686

days. After the end of this one hundred twenty-day period, the 7687
contractor shall be deemed to have exhausted all administrative 7688
remedies for purposes of division (B) of section 153.12 of the 7689
Revised Code. 7690

Sec. 153.17. (A) When in the opinion of the owner referred to 7691
in section 153.01 of the Revised Code, the work under any contract 7692
made under any law of the state is neglected by the contractor or 7693
such work is not prosecuted with the diligence and force specified 7694
or intended in the contract, such owner may make requisition upon 7695
the contractor for such additional specific force or materials to 7696
be brought into the work under such contract or to remove improper 7697
materials from the grounds as in their judgment the contract and 7698
its faithful fulfillment requires. 7699

Not less than five days' notice in writing of such action 7700
shall be served upon the contractor or the contractor's agent in 7701
charge of the work. If the contractor fails to comply with such 7702
requisition within fifteen days, such owner with the written 7703
consent of the ~~department of administrative services~~ Ohio 7704
facilities construction commission, may employ upon the work the 7705
additional force, or supply the special materials or such part of 7706
either as is considered proper, and may remove improper materials 7707
from the grounds. 7708

(B) When the original contractor has defaulted on a contract 7709
and the surety has declined to take over the project, the owner 7710
may contract with one or more takeover contractors to complete 7711
work that was not finished because of the default of the original 7712
contractor. The owner may enter into a contract with a takeover 7713
contractor without competitive bidding or controlling board 7714
approval. Upon execution of a takeover contract, the owner shall 7715
notify the director of budget and management. 7716

When the owner has taken over a project after a default has 7717

occurred, any moneys that the owner receives from the surety as a 7718
settlement for completion of the project shall be deposited in the 7719
original fund from which the capital appropriation for the project 7720
was made. The executive director, without controlling board 7721
approval, may authorize specified additional uses for the moneys 7722
related to completion of the project and may increase the 7723
appropriation authority in the appropriation line item used to 7724
fund the project by an amount equal to the moneys received from 7725
the surety. 7726

Sec. 153.502. (A) Each construction manager at risk and 7727
design-build firm shall establish criteria by which it will 7728
prequalify prospective bidders on subcontracts awarded for work to 7729
be performed under the construction management or design-build 7730
contract. The criteria established by a construction manager at 7731
risk or design-build firm shall be subject to the approval of the 7732
public authority involved in the project and shall be consistent 7733
with the rules adopted by the ~~department of administrative~~ 7734
~~services~~ Ohio facilities construction commission pursuant to 7735
section 153.503 of the Revised Code. 7736

(B) For each subcontract to be awarded, the construction 7737
manager at risk or design-build firm shall identify at least three 7738
prospective bidders that are prequalified to bid on that 7739
subcontract, except that the construction manager at risk or 7740
design-build firm shall identify fewer than three if the 7741
construction manager at risk or design-build firm establishes to 7742
the satisfaction of the public authority that fewer than three 7743
prequalified bidders are available. The public authority shall 7744
verify that each prospective bidder meets the prequalification 7745
criteria and may eliminate any bidder it determines is not 7746
qualified. 7747

(C) Once the prospective bidders are prequalified and found 7748

acceptable by the public authority, the construction manager at 7749
risk or design-build firm shall solicit proposals from each of 7750
those bidders. The solicitation and selection of a subcontractor 7751
shall be conducted under an open book pricing method. As used in 7752
this division, "open book pricing method" has the same meaning as 7753
in section 9.33 of the Revised Code, in the case of a construction 7754
manager at risk, and the same meaning as in section 153.65 of the 7755
Revised Code, in the case of a design-build firm. 7756

(D) A construction manager at risk or design-build firm shall 7757
not be required to award a subcontract to a low bidder. 7758

Sec. 153.503. The ~~department of administrative services~~ Ohio 7759
facilities construction commission, pursuant to Chapter 119. of 7760
the Revised Code ~~and not later than June 30, 2012~~, shall adopt 7761
rules to do all of the following: 7762

(A) Prescribe the procedures and criteria for determining the 7763
best value selection of a construction manager at risk or 7764
design-build firm; 7765

(B) ~~In consultation with the state architect's office, set~~ 7766
Set forth standards to be followed by construction managers at 7767
risk and design-build firms when establishing prequalification 7768
criteria pursuant to section 153.502 of the Revised Code; 7769

(C) Prescribe the form for the contract documents to be used 7770
by a construction manager at risk, design-build firm, or general 7771
contractor when entering into a subcontract; 7772

(D) Prescribe the form for the contract documents to be used 7773
by a public authority when entering into a contract with a 7774
construction manager at risk or design-build firm. 7775

Sec. 153.53. (A) As used in this section, "rate of inflation" 7776
has the same meaning as in section 107.032 of the Revised Code. 7777

7778

(B) Five years after ~~the effective date of this section~~ 7779
September 29, 2011, and every five years thereafter, the executive 7780
director of ~~administrative services~~ the Ohio facilities 7781
construction commission shall evaluate the monetary threshold 7782
specified in section 153.01 of the Revised Code and adopt rules 7783
adjusting that amount based on the average rate of inflation 7784
during each of the previous five years immediately preceding such 7785
adjustment. 7786

Sec. 154.25. (A) As used in this section: 7787

(1) "Available community or technical college receipts" means 7788
all money received by a community or technical college or 7789
community or technical college district, including income, 7790
revenues, and receipts from the operation, ownership, or control 7791
of facilities, grants, gifts, donations, and pledges and receipts 7792
therefrom, receipts from fees and charges, the allocated state 7793
share of instruction as defined in section ~~3333.90~~ 3333.59 of the 7794
Revised Code, and the proceeds of the sale of obligations, 7795
including proceeds of obligations issued to refund obligations 7796
previously issued, but excluding any special fee, and receipts 7797
therefrom, charged pursuant to division (D) of section 154.21 of 7798
the Revised Code. 7799

(2) "Community or technical college," "college," "community 7800
or technical college district," and "district" have the same 7801
meanings as in section ~~3333.90~~ 3333.59 of the Revised Code. 7802

(3) "Community or technical college capital facilities" means 7803
auxiliary facilities, education facilities, and housing and dining 7804
facilities, as those terms are defined in section 3345.12 of the 7805
Revised Code, to the extent permitted to be financed by the 7806
issuance of obligations under division (A)(2) of section 3357.112 7807
of the Revised Code, that are authorized by sections 3354.121, 7808
3357.112, and 3358.10 of the Revised Code to be financed by 7809

obligations issued by a community or technical college district, 7810
and for which the issuing authority is authorized to issue 7811
obligations pursuant to this section, and includes any one, part 7812
of, or any combination of the foregoing, and further includes site 7813
improvements, utilities, machinery, furnishings, and any separate 7814
or connected buildings, structures, improvements, sites, open 7815
space and green space areas, utilities, or equipment to be used 7816
in, or in connection with the operation or maintenance of, or 7817
supplementing or otherwise related to the services or facilities 7818
to be provided by, such facilities. 7819

(4) "Cost of community or technical college capital 7820
facilities" means the costs of acquiring, constructing, 7821
reconstructing, rehabilitating, remodeling, renovating, enlarging, 7822
improving, equipping, or furnishing community or technical college 7823
capital facilities, and the financing thereof, including the cost 7824
of clearance and preparation of the site and of any land to be 7825
used in connection with community or technical college capital 7826
facilities, the cost of any indemnity and surety bonds and 7827
premiums on insurance, all related direct administrative expenses 7828
and allocable portions of direct costs of the commission and the 7829
issuing authority, community or technical college or community or 7830
technical college district, cost of engineering, architectural 7831
services, design, plans, specifications and surveys, estimates of 7832
cost, legal fees, fees and expenses of trustees, depositories, 7833
bond registrars, and paying agents for obligations, cost of 7834
issuance of obligations and financing costs and fees and expenses 7835
of financial advisers and consultants in connection therewith, 7836
interest on obligations from the date thereof to the time when 7837
interest is to be covered by available receipts or other sources 7838
other than proceeds of those obligations, amounts necessary to 7839
establish reserves as required by the bond proceedings, costs of 7840
audits, the reimbursements of all moneys advanced or applied by or 7841
borrowed from the community or technical college, community or 7842

technical college district, or others, from whatever source 7843
provided, including any temporary advances from state 7844
appropriations, for the payment of any item or items of cost of 7845
community or technical college facilities, and all other expenses 7846
necessary or incident to planning or determining feasibility or 7847
practicability with respect to such facilities, and such other 7848
expenses as may be necessary or incident to the acquisition, 7849
construction, reconstruction, rehabilitation, remodeling, 7850
renovation, enlargement, improvement, equipment, and furnishing of 7851
community or technical college capital facilities, the financing 7852
thereof and the placing of them in use and operation, including 7853
any one, part of, or combination of such classes of costs and 7854
expenses. 7855

(5) "Capital facilities" includes community or technical 7856
college capital facilities. 7857

(6) "Obligations" has the same meaning as in section 154.01 7858
or 3345.12 of the Revised Code, as the context requires. 7859

(B) The issuing authority is authorized to issue revenue 7860
obligations under Section 2i of Article VIII, Ohio Constitution, 7861
on behalf of a community or technical college district and shall 7862
cause the net proceeds thereof, after any deposits of accrued 7863
interest for the payment of bond service charges and after any 7864
deposit of all or such lesser portion as the issuing authority may 7865
direct of the premium received upon the sale of those obligations 7866
for the payment of the bond service charges, to be applied to the 7867
cost of community or technical college capital facilities, 7868
provided that the issuance of such obligations is subject to the 7869
execution of a written agreement in accordance with division (C) 7870
of section ~~3333.90~~ 3333.59 of the Revised Code for the withholding 7871
and depositing of funds otherwise due the district, or the college 7872
it operates, in respect of its allocated state share of 7873
instruction. 7874

(C) The bond service charges and all other payments required 7875
to be made by the trust agreement or indenture securing the 7876
obligations shall be payable solely from available community or 7877
technical college receipts pledged thereto as provided in the 7878
resolution. The available community or technical college receipts 7879
pledged and thereafter received by the commission are immediately 7880
subject to the lien of such pledge without any physical delivery 7881
thereof or further act, and the lien of any such pledge is valid 7882
and binding against all parties having claims of any kind against 7883
the authority, irrespective of whether those parties have notice 7884
thereof, and creates a perfected security interest for all 7885
purposes of Chapter 1309. of the Revised Code and a perfected lien 7886
for purposes of any real property interest, all without the 7887
necessity for separation or delivery of funds or for the filing or 7888
recording of the resolution, trust agreement, indenture, or other 7889
agreement by which such pledge is created or any certificate, 7890
statement, or other document with respect thereto; and the pledge 7891
of such available community or technical college receipts is 7892
effective and the money therefrom and thereof may be applied to 7893
the purposes for which pledged. Every pledge, and every covenant 7894
and agreement made with respect to the pledge, made in the 7895
resolution may therein be extended to the benefit of the owners 7896
and holders of obligations authorized by this section, and to any 7897
trustee therefor, for the further securing of the payment of the 7898
bond service charges, and all or any rights under any agreement or 7899
lease made under this section may be assigned for such purpose. 7900

(D) This section is to be applied with other applicable 7901
provisions of this chapter. 7902

Sec. 167.04. (A) The regional council of governments shall 7903
adopt by-laws, by a majority vote of its members, designating the 7904
officers of the council and the method of their selection, 7905
creating a governing board that may act for the council as 7906

provided in the by-laws, and providing for the conduct of its 7907
business. 7908

(B) The by-laws of the regional council of governments shall 7909
provide for the appointment of a fiscal officer, who may hold any 7910
other office or employment with the council, and who shall 7911
receive, deposit, invest, and disburse the funds of the council in 7912
the manner authorized by the by-laws or action by the council. 7913

(C) The by-laws of a regional council of governments the 7914
members of which include, under sections 167.01 and 167.02 of the 7915
Revised Code, at least eight counties may include a provision 7916
authorizing member attendance and voting at council meetings 7917
either in person or by proxy. 7918

(D)(1) Within ten business days after forming a regional 7919
council of governments, the officers of the council shall notify 7920
the auditor of state of the regional council's formation and shall 7921
provide on a form prescribed by the auditor of state the 7922
information regarding the regional council that the auditor of 7923
state considers necessary. 7924

(2) As used in this division, "business day" means a day of 7925
the week, excluding Saturday, Sunday, or a legal holiday as 7926
defined in section 1.14 of the Revised Code. 7927

Sec. 169.01. As used in this chapter, unless the context 7928
otherwise requires: 7929

(A) "Financial organization" means any bank, trust company, 7930
savings bank, safe deposit company, mutual savings bank without 7931
mutual stock, savings and loan association, credit union, or 7932
investment company. 7933

(B)(1) ~~"Unclaimed funds"~~ "Property presumed abandoned" means 7934
any moneys, rights to moneys, or intangible property, described in 7935
section 169.02 of the Revised Code and reported to the director of 7936

commerce as required by section 169.03 of the Revised Code, when, 7937
as shown by the records of the holder, the owner has not, within 7938
the times provided in section 169.02 of the Revised Code, done any 7939
of the following: 7940

(a) Increased, decreased, or adjusted the amount of such 7941
~~funds~~ property; 7942

(b) Assigned, paid premiums, or encumbered such ~~funds~~ 7943
property; 7944

(c) Presented an appropriate record for the crediting of such 7945
~~funds~~ property or received payment of such ~~funds~~ property by 7946
check, draft, or otherwise; 7947

(d) Corresponded with the holder concerning such ~~funds~~ 7948
property; 7949

(e) Otherwise indicated an interest in or knowledge of such 7950
~~funds~~ property; 7951

(f) Transacted business with the holder. 7952

(2) "Unclaimed funds" means property presumed abandoned. 7953

(3) "Property presumed abandoned" does not include any of the 7954
following: 7955

(a) Money received or collected under section 9.39 of the 7956
Revised Code; 7957

(b) Any payment or credit due to a business association from 7958
a business association representing sums payable to suppliers, or 7959
payment for services rendered, in the course of business, 7960
including, but not limited to, checks or memoranda, overpayments, 7961
unidentified remittances, nonrefunded overcharges, discounts, 7962
refunds, and rebates; 7963

(c) Any payment or credit received by a business association 7964
from a business association for tangible goods sold, or services 7965
performed, in the course of business, including, but not limited 7966

to, checks or memoranda, overpayments, unidentified remittances, 7967
nonrefunded overcharges, discounts, refunds, and rebates; 7968

(d) Any credit due a retail customer that is represented by a 7969
gift certificate, gift card, merchandise credit, or merchandise 7970
credit card, redeemable only for merchandise. 7971

For purposes of divisions (B)(2)(b) and (c) of this section, 7972
"business association" means any corporation, joint venture, 7973
business trust, limited liability company, partnership, 7974
association, or other business entity composed of one or more 7975
individuals, whether or not the entity is for profit. 7976

(C) "Owner" means any person, or the person's legal 7977
representative, entitled to receive or having a legal or equitable 7978
interest in or claim against moneys, rights to moneys, or other 7979
intangible property, subject to this chapter. 7980

(D)(1) "Holder" means any person that has possession, 7981
custody, or control of moneys, rights to moneys, or other 7982
intangible property, or that is indebted to another, if any of the 7983
following applies: 7984

(a) Such person resides in this state; 7985

(b) Such person is formed under the laws of this state; 7986

(c) Such person is formed under the laws of the United States 7987
and has an office or principal place of business in this state; 7988

(d) The records of such person indicate that the last known 7989
address of the owner of such moneys, rights to moneys, or other 7990
intangible property is in this state; 7991

(e) The records of such person do not indicate the last known 7992
address of the owner of the moneys, rights to moneys, or other 7993
intangible property and the entity originating or issuing the 7994
moneys, rights to moneys, or other intangible property ~~is~~ in this 7995
state or any political subdivision of this state, or is 7996

incorporated, organized, created, or otherwise located in this 7997
state. Division (D)(1)(e) of this section applies to all moneys, 7998
rights to moneys, or other intangible property that is in the 7999
possession, custody, or control of such person on or after July 8000
22, 1994, whether the moneys, rights to moneys, or other 8001
intangible property becomes ~~unclaimed funds~~ property presumed 8002
abandoned prior to or on or after that date. 8003

(2) "Holder" does not mean any hospital granted tax-exempt 8004
status under section 501(c)(3) of the Internal Revenue Code or any 8005
hospital owned or operated by the state or by any political 8006
subdivision. Any entity in order to be exempt from the definition 8007
of "holder" pursuant to this division shall make a reasonable, 8008
good-faith effort to contact the owner of the ~~unclaimed funds~~ 8009
property presumed abandoned. 8010

(E) "Person" includes a natural person; corporation, whether 8011
for profit or not for profit; copartnership; unincorporated 8012
nonprofit association; public authority; estate; trust; two or 8013
more persons having a joint or common interest; eleemosynary 8014
organization; fraternal or cooperative association; other legal or 8015
community entity; the United States government, including any 8016
district, territory, possession, officer, agency, department, 8017
authority, instrumentality, board, bureau, or court; or any state 8018
or political subdivision thereof, including any officer, agency, 8019
board, bureau, commission, division, department, authority, court, 8020
or instrumentality. 8021

(F) "Mortgage funds" means the mortgage insurance fund 8022
created by section 122.561 of the Revised Code, and the housing 8023
~~guarantee~~ development fund created by division ~~(D)~~(A) of section 8024
~~128.11~~ 175.11 of the Revised Code. 8025

(G) "Lawful claims" means any vested right a holder of 8026
~~unclaimed funds~~ property presumed abandoned has against the owner 8027
of such ~~unclaimed funds~~ property. 8028

(H) "Public utility" means any entity defined as such by 8029
division (A) of section 745.01 or by section 4905.02 of the 8030
Revised Code. 8031

(I) "Deposit" means to place money in the custody of a 8032
financial organization for the purpose of establishing an 8033
income-bearing account by purchase or otherwise. 8034

(J) "Income-bearing account" means a time or savings account, 8035
whether or not evidenced by a certificate of deposit, or an 8036
investment account through which investments are made solely in 8037
obligations of the United States or its agencies or 8038
instrumentalities or guaranteed as to principal and interest by 8039
the United States or its agencies or instrumentalities, debt 8040
securities rated as investment grade by at least two nationally 8041
recognized rating services, debt securities which the director of 8042
commerce has determined to have been issued for the safety and 8043
welfare of the residents of this state, and equity interests in 8044
mutual funds that invest solely in some or all of the above-listed 8045
securities and involve no general liability, without regard to 8046
whether income earned on such accounts, securities, or interests 8047
is paid periodically or at the end of a term. 8048

(K) "Director of commerce" may be read as the "division of 8049
unclaimed funds" or the "superintendent of unclaimed funds." 8050

Sec. 169.02. Subject to division (B) of section 169.01 of the 8051
Revised Code, the following constitute ~~unclaimed funds~~ property 8052
presumed abandoned: 8053

(A) Except as provided in division (R) of this section, any 8054
demand, savings, or matured time deposit account, or matured 8055
certificate of deposit, together with any interest or dividend on 8056
it, less any lawful claims, that is held or owed by a holder which 8057
is a financial organization, unclaimed for a period of five years; 8058

(B) Any funds paid toward the purchase of withdrawable shares 8059
or other interest in a financial organization, and any interest or 8060
dividends on them, less any lawful claims, that is held or owed by 8061
a holder which is a financial organization, unclaimed for a period 8062
of five years; 8063

(C) Except as provided in division (A) of section 3903.45 of 8064
the Revised Code, moneys held or owed by a holder, including a 8065
fraternal association, providing life insurance, including annuity 8066
or endowment coverage, unclaimed for three years after becoming 8067
payable as established from the records of such holder under any 8068
life or endowment insurance policy or annuity contract that has 8069
matured or terminated. An insurance policy, the proceeds of which 8070
are payable on the death of the insured, not matured by proof of 8071
death of the insured is deemed matured and the proceeds payable if 8072
such policy was in force when the insured attained the limiting 8073
age under the mortality table on which the reserve is based. 8074

Moneys otherwise payable according to the records of such 8075
holder are deemed payable although the policy or contract has not 8076
been surrendered as required. 8077

(D) Any deposit made to secure payment or any sum paid in 8078
advance for utility services of a public utility and any amount 8079
refundable from rates or charges collected by a public utility for 8080
utility services held or owed by a holder, less any lawful claims, 8081
that has remained unclaimed for one year after the termination of 8082
the services for which the deposit or advance payment was made or 8083
one year from the date the refund was payable, whichever is 8084
earlier; 8085

(E) Except as provided in division (R) of this section, any 8086
certificates, securities as defined in section 1707.01 of the 8087
Revised Code, nonwithdrawable shares, other instruments evidencing 8088
ownership, or rights to them or funds paid toward the purchase of 8089
them, or any dividend, capital credit, profit, distribution, 8090

interest, or payment on principal or other sum, held or owed by a 8091
holder, including funds deposited with a fiscal agent or fiduciary 8092
for payment of them, and instruments representing an ownership 8093
interest, unclaimed for five years. Any underlying share or other 8094
intangible instrument representing an ownership interest in a 8095
business association, in which the issuer has recorded on its 8096
books the issuance of the share but has been unable to deliver the 8097
certificate to the shareholder, constitutes ~~unclaimed funds~~ 8098
property presumed abandoned if such underlying share is unclaimed 8099
for five years. In addition, an underlying share constitutes 8100
~~unclaimed funds~~ property presumed abandoned if a dividend, 8101
distribution, or other sum payable as a result of the underlying 8102
share has remained unclaimed by the owner for five years. 8103

This division shall not prejudice the rights of fiscal agents 8104
or fiduciaries for payment to return the items described in this 8105
division to their principals, according to the terms of an agency 8106
or fiduciary agreement, but such a return shall constitute the 8107
principal as the holder of the items and shall not interrupt the 8108
period for computing the time for which the items have remained 8109
unclaimed. 8110

In the case of any such funds accruing and held or owed by a 8111
corporation under division (E) of section 1701.24 of the Revised 8112
Code, such corporation shall comply with this chapter, subject to 8113
the limitation contained in section 1701.34 of the Revised Code. 8114
The period of time for which such funds have gone unclaimed 8115
specified in section 1701.34 of the Revised Code shall be 8116
computed, with respect to dividends or distributions, commencing 8117
as of the dates when such dividends or distributions would have 8118
been payable to the shareholder had such shareholder surrendered 8119
the certificates for cancellation and exchange by the date 8120
specified in the order relating to them. 8121

Capital credits of a cooperative which after January 1, 1972, 8122

have been allocated to members and which by agreement are 8123
expressly required to be paid if claimed after death of the owner 8124
are deemed payable, for the purpose of this chapter, fifteen years 8125
after either the termination of service by the cooperative to the 8126
owner or upon the nonactivity as provided in division (B) of 8127
section 169.01 of the Revised Code, whichever occurs later, 8128
provided that this provision does not apply if the payment is not 8129
mandatory. 8130

(F) Any sum payable on certified checks or other written 8131
instruments certified or issued and representing funds held or 8132
owed by a holder, less any lawful claims, that are unclaimed for 8133
five years from the date payable or from the date of issuance if 8134
payable on demand; except that the unclaimed period for money 8135
orders that are not third party bank checks is seven years, and 8136
the unclaimed period for traveler's checks is fifteen years, from 8137
the date payable or from the date of issuance if payable on 8138
demand. 8139

As used in this division, "written instruments" include, but 8140
are not limited to, certified checks, cashier's checks, bills of 8141
exchange, letters of credit, drafts, money orders, and traveler's 8142
checks. 8143

If there is no address of record for the owner or other 8144
person entitled to the funds, such address is presumed to be the 8145
address where the instrument was certified or issued. 8146

(G) Except as provided in division (R) of this section, all 8147
moneys, rights to moneys, or other intangible property, arising 8148
out of the business of engaging in the purchase or sale of 8149
securities, or otherwise dealing in intangibles, less any lawful 8150
claims, that are held or owed by a holder and are unclaimed for 8151
five years from the date of transaction. 8152

(H) Except as provided in division (A) of section 3903.45 of 8153

the Revised Code, all moneys, rights to moneys, and other 8154
intangible property distributable in the course of dissolution or 8155
liquidation of a holder that are unclaimed for one year after the 8156
date set by the holder for distribution; 8157

(I) All moneys, rights to moneys, or other intangible 8158
property removed from a safe-deposit box or other safekeeping 8159
repository located in this state or removed from a safe-deposit 8160
box or other safekeeping repository of a holder, on which the 8161
lease or rental period has expired, or any amount arising from the 8162
sale of such property, less any lawful claims, that are unclaimed 8163
for three years from the date on which the lease or rental period 8164
expired; 8165

(J) Subject to division (M)(2) of this section, all moneys, 8166
rights to moneys, or other intangible property, and any income or 8167
increment on them, held or owed by a holder which is a fiduciary 8168
for the benefit of another, or a fiduciary or custodian of a 8169
qualified retirement plan or individual retirement arrangement 8170
under section 401 or 408 of the Internal Revenue Code, unclaimed 8171
for three years after the final date for distribution; 8172

(K) All moneys, rights to moneys, or other intangible 8173
property held or owed in this state or held for or owed to an 8174
owner whose last known address is within this state, by the United 8175
States government or any state, as those terms are described in 8176
division (E) of section 169.01 of the Revised Code, unclaimed by 8177
the owner for three years, excluding any property in the control 8178
of any court in a proceeding in which a final adjudication has not 8179
been made; 8180

(L) Amounts payable pursuant to the terms of any policy of 8181
insurance, other than life insurance, or any refund available 8182
under such a policy, held or owed by any holder, unclaimed for 8183
three years from the date payable or distributable; 8184

(M)(1) Subject to division (M)(2) of this section, any funds 8185
constituting rents or lease payments due, any deposit made to 8186
secure payment of rents or leases, or any sum paid in advance for 8187
rents, leases, possible damage to property, unused services, 8188
performance requirements, or any other purpose, held or owed by a 8189
holder unclaimed for one year; 8190

(2) Any escrow funds, security deposits, or other moneys that 8191
are received by a licensed broker in a fiduciary capacity and 8192
that, pursuant to division (A)(26) of section 4735.18 of the 8193
Revised Code, are required to be deposited into and maintained in 8194
a special or trust, noninterest-bearing bank account separate and 8195
distinct from any personal or other account of the licensed 8196
broker, held or owed by the licensed broker unclaimed for two 8197
years. 8198

(N) Any sum greater than fifty dollars payable as wages, any 8199
sum payable as salaries or commissions, any sum payable for 8200
services rendered, funds owed or held as royalties, oil and 8201
mineral proceeds, funds held for or owed to suppliers, and moneys 8202
owed under pension and profit-sharing plans, held or owed by any 8203
holder unclaimed for one year from date payable or distributable, 8204
and all other credits held or owed, or to be refunded to a retail 8205
customer, by any holder unclaimed for three years from date 8206
payable or distributable; 8207

(O) Amounts held in respect of or represented by lay-aways 8208
sold after January 1, 1972, less any lawful claims, when such 8209
lay-aways are unclaimed for three years after the sale of them; 8210

(P) All moneys, rights to moneys, and other intangible 8211
property not otherwise constituted as ~~unclaimed funds~~ property 8212
presumed abandoned by this section, including any income or 8213
increment on them, less any lawful claims, which are held or owed 8214
by any holder, other than a holder which holds a permit issued 8215
pursuant to Chapter 3769. of the Revised Code, and which have 8216

remained unclaimed for three years after becoming payable or 8217
distributable; 8218

(Q) All moneys that arise out of a sale held pursuant to 8219
section 5322.03 of the Revised Code, that are held by a holder for 8220
delivery on demand to the appropriate person pursuant to division 8221
(I) of that section, and that are unclaimed for two years after 8222
the date of the sale. 8223

(R)(1) Any funds that are subject to an agreement between the 8224
holder and owner providing for automatic reinvestment and that 8225
constitute dividends, distributions, or other sums held or owed by 8226
a holder in connection with a security as defined in section 8227
1707.01 of the Revised Code, an ownership interest in an 8228
investment company registered under the "Investment Company Act of 8229
1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, or a certificate 8230
of deposit, unclaimed for a period of five years. 8231

(2) The five-year period under division (R)(1) of this 8232
section commences from the date a second shareholder notification 8233
or communication mailing to the owner of the funds is returned to 8234
the holder as undeliverable by the United States postal service or 8235
other carrier. The notification or communication mailing by the 8236
holder shall be no less frequent than quarterly. 8237

All moneys in a personal allowance account, as defined by 8238
rules adopted by the director of job and family services, up to 8239
and including the maximum resource limitation, of a medicaid 8240
patient who has died after receiving care in a long-term care 8241
facility, and for whom there is no identifiable heir or sponsor, 8242
are not subject to this chapter. 8243

Sec. 169.03. (A)(1) Every holder of ~~unclaimed funds~~ property 8244
presumed abandoned and, when requested, every person that could be 8245
the holder of ~~unclaimed funds~~ property presumed abandoned, under 8246
this chapter shall report to the director of commerce with respect 8247

to the ~~unclaimed funds~~ property presumed abandoned as provided in 8248
this section. The report shall be verified. 8249

(2) With respect to items of ~~unclaimed funds~~ property 8250
presumed abandoned each having a value of fifty dollars or more, 8251
the report required under division (A)(1) of this section shall 8252
include the following: 8253

(a) The full name, if known, and last known address, if any, 8254
of each person appearing from the records of the holder to be the 8255
owner of ~~unclaimed funds~~ property presumed abandoned under this 8256
chapter; 8257

(b) In the case of ~~unclaimed funds~~ property presumed 8258
abandoned reported by holders providing life insurance coverage, 8259
the full name of the insured or annuitant and beneficiary, if any, 8260
and their last known addresses according to the holder's records; 8261

(c) The nature and identifying number, if any, or description 8262
of the ~~funds~~ property and the amount appearing from the records to 8263
be due; 8264

(d) The date when the ~~funds~~ property became payable, 8265
demandable, or returnable and the date of the last transaction 8266
with the owner with respect to the ~~funds~~ property; 8267

(e) Subject to division (I) of this section, the social 8268
security number of the owner of the ~~unclaimed funds~~ property 8269
presumed abandoned, if it is available; 8270

(f) If the item of ~~unclaimed funds~~ property presumed 8271
abandoned has a value of one thousand dollars or more and the 8272
holder has verified that the last known address as shown by the 8273
records of the holder is not accurate as provided in division (D) 8274
of this section, a statement that efforts were undertaken by the 8275
holder to verify that the address is not accurate. Any verifying 8276
documentation shall be maintained by the holder for five years 8277

from the date of the report and shall be available upon request to 8278
the director or the director's designee. 8279

(g) Other information that the director prescribes as 8280
necessary for the administration of this chapter. 8281

(3) With respect to items of ~~unclaimed funds~~ property 8282
presumed abandoned each having a value of less than fifty dollars, 8283
the report required under division (A)(1) of this section shall 8284
include the following: 8285

(a) Each category of items of ~~unclaimed funds~~ property 8286
presumed abandoned as described in section 169.02 of the Revised 8287
Code; 8288

(b) The number of items of ~~unclaimed funds~~ property presumed 8289
abandoned within each category; 8290

(c) The aggregated value of the items of ~~unclaimed funds~~ 8291
property presumed abandoned within each category. 8292

(B) If the holder of ~~unclaimed funds~~ property presumed 8293
abandoned is a successor to other organizations that previously 8294
held the funds for the owner, or if the holder has changed its 8295
name while holding the ~~funds~~ property, it shall file with the 8296
report all prior known names and addresses and date and state of 8297
incorporation or formation of each holder of the ~~funds~~ property. 8298

(C) The report shall be filed before the first day of 8299
November of each year as of the preceding thirtieth day of June, 8300
but the report of holders providing life insurance coverage shall 8301
be filed before the first day of May of each year as of the 8302
preceding thirty-first day of December. The director may postpone, 8303
for good cause shown, the reporting date upon written request by 8304
any holder required to file a report. 8305

(D) The holder of ~~unclaimed funds~~ property presumed abandoned 8306
under this chapter shall send notice to each owner of each item of 8307

~~unclaimed funds~~ property presumed abandoned having a value of 8308
fifty dollars or more at the last known address of the owner as 8309
shown by the records of the holder before filing the annual 8310
report. In case of holders providing life insurance coverage, this 8311
notice shall also be mailed to each beneficiary at the last known 8312
address of the beneficiary as shown by the records of the holder, 8313
except that the notice to beneficiaries shall not be mailed if 8314
that address is the same as that of the insured and the surname of 8315
the beneficiary is the same as that of the insured. The holder 8316
shall not report an item of ~~unclaimed funds~~ property presumed 8317
abandoned earlier than the thirtieth day after the mailing of 8318
notice required by this division. 8319

The notice required by this division shall set forth the 8320
nature and identifying number, if any, or description of the ~~funds~~ 8321
property and the amount appearing on the records of the holder to 8322
be due the owner or beneficiary, and shall inform the owner or 8323
beneficiary that the ~~funds~~ property will, thirty days after the 8324
mailing of the notice, be reported as ~~unclaimed funds~~ property 8325
presumed abandoned under this chapter. A self-addressed, stamped 8326
envelope shall be included with the notice, with instructions that 8327
the owner or beneficiary may use the envelope to inform the holder 8328
of the owner's or beneficiary's continued interest in the ~~funds~~ 8329
property, and, if so informed before the date for making the 8330
report to the director, the holder shall not report the ~~funds~~ 8331
property to the director. The notice shall be mailed by first 8332
class mail if the item of ~~unclaimed funds~~ property presumed 8333
abandoned has a value of fifty dollars or more but less than one 8334
thousand dollars and by certified mail, return receipt requested, 8335
if the item of ~~unclaimed funds~~ property presumed abandoned has a 8336
value of one thousand dollars or more, unless the holder has 8337
verified that the last known address of the owner or beneficiary 8338
as shown by the records of the holder is not accurate. For 8339
purposes of this section, a holder has verified that the last 8340

known address of the owner or beneficiary is not accurate by 8341
documenting at least two of the following: 8342

(1) The owner or beneficiary failed to respond to a first 8343
class mail notice sent to the last known address of the owner or 8344
beneficiary. 8345

(2) A first class mail notice sent by the holder to the last 8346
known address of the owner or beneficiary was returned as 8347
undeliverable. 8348

(3) An electronic or manual search of available public 8349
records failed to confirm that the last known address of the owner 8350
or beneficiary is accurate. The holder shall maintain 8351
documentation of its search efforts. If a search of public records 8352
or databases identifies a more recent address for the owner or 8353
beneficiary than the address in the holder's records, the holder 8354
shall send notice to the owner or beneficiary at that more recent 8355
address in accordance with this section. 8356

A holder that sends a notice by certified mail, return 8357
receipt requested, may charge the item of ~~unclaimed funds~~ property 8358
presumed abandoned up to twenty dollars for providing that notice. 8359

If there is no address of record for the owner or 8360
beneficiary, the holder is relieved of any responsibility of 8361
sending notice, attempting to notify, or notifying the owner or 8362
beneficiary. The mailing of notice pursuant to this section shall 8363
discharge the holder from any further responsibility to give 8364
notice. 8365

(E) Verification of the report and of the mailing of notice, 8366
where required, shall be executed by an officer of the reporting 8367
holder. 8368

(F)(1) The director may, at reasonable times and upon 8369
reasonable notice, examine or cause to be examined, by auditors of 8370
supervisory departments or divisions of the state, the records of 8371

any holder to determine compliance with this chapter. 8372

(2) Holders shall retain records, designated by the director 8373
as applicable to ~~unclaimed funds~~ property presumed abandoned, for 8374
five years beyond the relevant time period provided in section 8375
169.02 of the Revised Code, or until completion of an audit 8376
conducted pursuant to division (F) of this section, whichever 8377
occurs first. An audit conducted pursuant to division (F) of this 8378
section shall not require a holder to make records available for a 8379
period of time exceeding the records retention period set forth in 8380
division (F) of this section, except for records pertaining to 8381
instruments evidencing ownership, or rights to them or funds paid 8382
toward the purchase of them, or any dividend, capital credit, 8383
profit, distribution, interest, or payment on principal or other 8384
sum, held or owed by a holder, including ~~funds~~ property deposited 8385
with a fiscal agent or fiduciary for payment of them, or 8386
pertaining to debt of a publicly traded corporation. Any holder 8387
that is audited pursuant to division (F) of this section shall 8388
only be required to make available those records that are relevant 8389
to an ~~unclaimed funds~~ audit of that holder as prescribed by the 8390
director. 8391

(3) The director may enter into contracts, pursuant to 8392
procedures prescribed by the director, with persons for the sole 8393
purpose of examining the records of holders, determining 8394
compliance with this chapter, and collecting, taking possession 8395
of, and remitting to the department's division of unclaimed funds, 8396
in a timely manner, the amounts found and defined as unclaimed. 8397
The director shall not enter into such a contract with a person 8398
unless the person does all of the following: 8399

(a) Agrees to maintain the confidentiality of the records 8400
examined, as required under division (F)(4) of this section; 8401

(b) Agrees to conduct the audit in accordance with rules 8402
adopted under section 169.09 of the Revised Code; 8403

(c) Obtains a corporate surety bond issued by a bonding 8404
company or insurance company authorized to do business in this 8405
state. The bond shall be in favor of the director and in the penal 8406
sum determined by the director. The bond shall be for the benefit 8407
of any holder of ~~unclaimed funds~~ property presumed abandoned that 8408
is audited by the principal and is injured by the principal's 8409
failure to comply with division (F)(3)(a) or (b) of this section. 8410

(4) Records audited pursuant to division (F) of this section 8411
are confidential, and shall not be disclosed except as required by 8412
section 169.06 of the Revised Code or as the director considers 8413
necessary in the proper administration of this chapter. 8414

(5) If a person with whom the director has entered into a 8415
contract pursuant to division (F)(3) of this section intends to 8416
conduct, in conjunction with an ~~unclaimed funds~~ audit under this 8417
section, an ~~unclaimed funds~~ audit for the purpose of administering 8418
another state's unclaimed or abandoned property laws, the person, 8419
prior to commencing the audit, shall provide written notice to the 8420
director of the person's intent to conduct such an audit, along 8421
with documentation evidencing the person's express authorization 8422
from the other state to conduct the audit on behalf of that state. 8423

(6) Prior to the commencement of an audit conducted pursuant 8424
to division (F) of this section, the director shall notify the 8425
holder of ~~unclaimed funds~~ property presumed abandoned of the 8426
director's intent to audit the holder's records. If the audit will 8427
be conducted in conjunction with an audit for one or more other 8428
states, the director shall provide the holder with the name or 8429
names of those states. 8430

(7) Any holder of ~~unclaimed funds~~ property presumed abandoned 8431
may appeal the findings of an audit conducted pursuant to division 8432
(F) of this section to the director. Pursuant to the authority 8433
granted by section 169.09 of the Revised Code, the director shall 8434
adopt rules establishing procedures for considering such an 8435

appeal. 8436

(G) All holders shall make sufficient investigation of their 8437
records to ensure that the funds reported to the director are 8438
unclaimed as set forth in division (B) of section 169.01 and 8439
section 169.02 of the Revised Code. 8440

(H) The expiration of any period of limitations on or after 8441
March 1, 1968, within which a person entitled to any moneys, 8442
rights to moneys, or intangible property could have commenced an 8443
action or proceeding to obtain these items shall not prevent these 8444
items from becoming ~~unclaimed funds~~ property presumed abandoned or 8445
relieve the holder of them of any duty to report and give notice 8446
as provided in this section and deliver them in the manner 8447
provided in section 169.05 of the Revised Code, provided that the 8448
holder may comply with this section and section 169.05 of the 8449
Revised Code with respect to any moneys, rights to moneys, or 8450
intangible property as to which the applicable statute of 8451
limitations has run prior to March 1, 1968, and in that event the 8452
holder shall be entitled to the protective provisions of section 8453
169.07 of the Revised Code. 8454

(I) No social security number contained in a report made 8455
pursuant to this section shall be used by the department of 8456
commerce for any purpose other than to enable the division of 8457
unclaimed funds to carry out the purposes of this chapter and for 8458
child support purposes in response to a request made by the office 8459
of child support in the department of job and family services made 8460
pursuant to section 3123.88 of the Revised Code. 8461

Sec. 169.06. (A) Before the first day of November of each 8462
year immediately following the calendar year in which the filing 8463
of reports is required by section 169.03 of the Revised Code, the 8464
director of commerce shall cause notice to be published once in an 8465
English language newspaper of general circulation in the county in 8466

this state in which is located the last known address of any 8467
person to be named in the notice required by this section. If no 8468
address is listed, the notice shall be published in the county in 8469
which the holder of the ~~unclaimed funds~~ property presumed 8470
abandoned has its principal place of business within this state; 8471
or if the holder has no principal place of business within this 8472
state, or if the owner's address is outside this state, 8473
publication shall be made ~~as the director determines most~~ 8474
~~effective~~ on the department's internet web site for a period of 8475
time the director may reasonably select. ~~If the address is outside~~ 8476
~~this state, notice shall be published in a newspaper of general~~ 8477
~~circulation in the county or parish of any state in the United~~ 8478
~~States in which such last known address is located. If the last~~ 8479
~~known address is in a foreign country, publication shall be made~~ 8480
~~as the director determines most effective.~~ 8481

If the name of the owner is not available, the director may 8482
publish notice by class, identifying number, or as the director 8483
determines most effective. 8484

(B) The published notice shall be entitled "Notice of Names 8485
of Persons Appearing to be Owners of ~~Unclaimed Funds~~ Property 8486
Presumed Abandoned," and shall contain: 8487

(1) The names in alphabetical order and last known addresses, 8488
if any, of each person appearing from the records of the holder to 8489
be the owner of ~~unclaimed funds~~ property presumed abandoned of a 8490
value of fifty dollars or more and entitled to notice as specified 8491
in division (A) of this section; 8492

(2) A statement that information concerning the amount of the 8493
funds and any necessary information concerning the presentment of 8494
a claim therefor may be obtained by any persons possessing a 8495
property interest in the ~~unclaimed funds~~ property presumed 8496
abandoned by addressing an inquiry to the director. 8497

(C) With respect to items of ~~unclaimed funds~~ property 8498
presumed abandoned each having a value of ~~ten~~ fifty dollars or 8499
more, the director shall have available in ~~his~~ the director's 8500
office during business hours an alphabetical list of owners and 8501
where a holder is a person providing life insurance coverage, 8502
beneficiaries, and their last known addresses, if any, whose funds 8503
are being held by the state pursuant to this chapter. 8504

(D) The director may give any additional notice ~~he~~ the 8505
director deems necessary to inform the owner of the whereabouts of 8506
~~his~~ the owner's funds. 8507

Sec. 169.08. (A) Any person claiming a property interest in 8508
~~unclaimed funds~~ property presumed abandoned delivered or reported 8509
to the state under Chapter 169. of the Revised Code, including the 8510
office of child support in the department of job and family 8511
services, pursuant to section 3123.88 of the Revised Code, may 8512
file a claim thereto on the form prescribed by the director of 8513
commerce. 8514

(B) The director shall consider matters relevant to any claim 8515
filed under division (A) of this section and shall hold a formal 8516
hearing if requested or considered necessary and receive evidence 8517
concerning such claim. A finding and decision in writing on each 8518
claim filed shall be prepared, stating the substance of any 8519
evidence received or heard and the reasons for allowance or 8520
disallowance of the claim. The evidence and decision shall be a 8521
public record. No statute of limitations shall bar the allowance 8522
of a claim. 8523

(C) For the purpose of conducting any hearing, the director 8524
may require the attendance of such witnesses and the production of 8525
such books, records, and papers as the director desires, and the 8526
director may take the depositions of witnesses residing within or 8527
without this state in the same manner as is prescribed by law for 8528

the taking of depositions in civil actions in the court of common 8529
pleas, and for that purpose the director may issue a subpoena for 8530
any witness or a subpoena duces tecum to compel the production of 8531
any books, records, or papers, directed to the sheriff of the 8532
county where such witness resides or is found, which shall be 8533
served and returned. The fees of the sheriff shall be the same as 8534
that allowed in the court of common pleas in criminal cases. 8535
Witnesses shall be paid the fees and mileage provided for under 8536
section 119.094 of the Revised Code. Fees and mileage shall be 8537
paid from the unclaimed funds trust fund. 8538

(D) ~~Interest is not payable to claimants of unclaimed funds~~ 8539
~~held by the state~~ If a claim is allowed, the director shall pay 8540
over or deliver to the claimant the property presumed abandoned in 8541
the amount the director actually received, or the net proceeds if 8542
the securities or other intangible property delivered to the 8543
director have been sold, together with any interest if required to 8544
be paid pursuant to this section. With respect to any claim paid 8545
on or after the effective date of this amendment, the director 8546
shall pay simple interest on such claim at a rate to be determined 8547
by the director, who shall adopt administrative rules governing 8548
the payment of interest on property delivered to the director. Any 8549
returns on investment or interest earned beyond what the director 8550
shall pay as interest to the owner pursuant to this section shall 8551
be retained by the director to fund the cost of the administration 8552
of this chapter. Claims shall be paid from the trust fund. If the 8553
amount available in the trust fund is not sufficient to pay 8554
pending claims, or other amounts disburseable from the trust fund, 8555
the treasurer of state shall certify such fact to the director, 8556
who shall then withdraw such amount of funds from the mortgage 8557
accounts as the director determines necessary to reestablish the 8558
trust fund to a level required to pay anticipated claims but not 8559
more than ten per cent of the net unclaimed funds reported to 8560
date. 8561

The director may withdraw the funds paid to the director by 8562
the holders and deposited by the director with the treasurer of 8563
state or in a financial institution as agent for such funds. 8564
Whenever these funds are inadequate to meet the requirements for 8565
the trust fund, the director shall provide for a withdrawal of 8566
funds, within a reasonable time, in such amount as is necessary to 8567
meet the requirements, from financial institutions in which such 8568
funds were retained or placed by a holder and from other holders 8569
who have retained funds, in an equitable manner as prescribed by 8570
the director. In the event that the amount to be withdrawn from 8571
any one such holder is less than five hundred dollars, the amount 8572
to be withdrawn shall be at the discretion of the director. Such 8573
funds may be reimbursed in the amounts withdrawn when the trust 8574
fund has a surplus over the amount required to pay anticipated 8575
claims. Whenever the trust fund has a surplus over the amount 8576
required to pay anticipated claims, the director may transfer such 8577
surplus to the mortgage accounts. 8578

(E) If a claim which is allowed under this section relates to 8579
funds which have been retained by the reporting holder, and if the 8580
funds, on deposit with the treasurer of state pursuant to this 8581
chapter, are insufficient to pay claims, the director may notify 8582
such holder in writing of the payment of the claim and such holder 8583
shall immediately reimburse the state in the amount of such claim. 8584
The reimbursement shall be credited to the unclaimed funds trust 8585
fund. 8586

(F) Any person, including the office of child support, 8587
adversely affected by a decision of the director may appeal such 8588
decision in the manner provided in Chapter 119. of the Revised 8589
Code. 8590

In the event the claimant prevails, the claimant shall be 8591
reimbursed for reasonable attorney's fees and costs. 8592

(G) Notwithstanding anything to the contrary in this chapter, 8593

any holder who has paid moneys to or entered into an agreement 8594
with the director pursuant to section 169.05 of the Revised Code 8595
on certified checks, cashiers' checks, bills of exchange, letters 8596
of credit, drafts, money orders, or travelers' checks, may make 8597
payment to any person entitled thereto, including the office of 8598
child support, and upon surrender of the document, except in the 8599
case of travelers' checks, and proof of such payment, the director 8600
shall reimburse the holder for such payment without interest. 8601

Sec. 169.13. (A)(1) All agreements to pay a fee, 8602
compensation, commission, or other remuneration to locate, 8603
deliver, recover, or assist in the recovery of unclaimed funds 8604
reported under section 169.03 of the Revised Code, entered into 8605
within two years immediately after the date a report is filed 8606
under division (C) of section 169.03 of the Revised Code, are 8607
invalid. 8608

(2) A person interested in entering into an agreement to 8609
locate, deliver, recover, or assist in the recovery of unclaimed 8610
funds for remuneration shall not initiate any contact with an 8611
owner during the two-year period immediately after the date a 8612
report is filed under division (C) of section 169.03 of the 8613
Revised Code. Failure to comply with this requirement is grounds 8614
for the invalidation of any such agreement between the person and 8615
the owner. 8616

(B) An agreement entered into any time after such two-year 8617
period is valid only if all of the following conditions are met: 8618

(1) The aggregate fee, compensation, commission, or other 8619
remuneration agreed upon is not in excess of ten per cent of the 8620
amount recovered and paid to the owner by the director of budget 8621
and management; 8622

(2) The agreement is in writing, signed by the owner, and 8623
notarized and discloses all of the following items: 8624

(a) The name, address, and telephone number of the owner, as 8625
shown by the records of the person or entity in possession of the 8626
unclaimed funds or contents of a safe deposit box; 8627

(b) The name, address, and telephone number of the owner if 8628
the owner's name, address, or telephone number are different from 8629
the name, address, or telephone number of the owner as shown by 8630
the records of the person or entity in possession of the unclaimed 8631
funds or contents of a safe deposit box; 8632

(c) The nature and value of the unclaimed funds or contents 8633
of a safe deposit box; 8634

(d) The amount the owner will receive after the fee or 8635
compensation has been subtracted; 8636

(e) The name and address of the person or entity in 8637
possession of the unclaimed funds or contents of a safe deposit 8638
box; 8639

(f) That the ~~auditor of state~~ director of commerce will ~~pay~~ 8640
the direct the director of budget and management to pay from the 8641
unclaimed funds any legal amount specified in the agreement to 8642
compensate a person registered under section 169.16 of the Revised 8643
Code for services performed pursuant to the agreement, will pay 8644
the amount directly to the registrant, less any fee established 8645
pursuant to division (D) of section 169.14 of the Revised Code, 8646
and will pay any remaining unclaimed funds directly to the owner, 8647
or the director of commerce shall deliver the contents of a safe 8648
deposit box directly to the owner; 8649

(g) That the person agreeing to locate, deliver, recover, or 8650
assist in the recovery of the unclaimed funds or contents of a 8651
safe deposit box is not an employee or agent of the director of 8652
commerce; 8653

(h) That the director of commerce is not a party to the 8654
agreement; 8655

(i) That the person agreeing to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box holds a valid certificate of registration issued by the director under section 169.16 of the Revised Code;

(j) The number designated on that certificate of registration and the date the certificate of registration expires.

(3) No agreement described in division (B)(2) of this section shall include a power of attorney for the payment of the unclaimed funds or delivery of the contents of a safe deposit box to any person other than the owner of the unclaimed funds or contents of a safe deposit box.

(4) If the agreement involves recovery of the contents of a safe deposit box, the agreement stipulates that the person receiving any fee, compensation, commission, or other remuneration for engaging in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on behalf of any other person shall do all of the following:

(a) Make arrangements to have an appraiser and the director of commerce view the contents of the safe deposit box together, at a time mutually agreeable to the appraiser and director;

(b) State that the value of the property in the safe deposit box is the amount established by the appraiser who viewed the safe deposit box contents;

(c) Base the fee, compensation, commission, or other remuneration for locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on the appraised value established by the appraiser who viewed the safe deposit box contents.

(C) No person shall receive a fee, compensation, commission, or other remuneration, or engage in any activity for the purpose

of locating, delivering, recovering, or assisting in the recovery 8687
of unclaimed funds or contents of a safe deposit box, under an 8688
agreement that is invalid under this section. 8689

(D) A person who receives any fee, compensation, commission, 8690
or other remuneration for engaging in any activity for the purpose 8691
of locating, delivering, recovering, or assisting in the recovery 8692
of unclaimed funds or other items stored in a safe deposit box on 8693
behalf of any other person cannot function as an appraiser of the 8694
contents of the safe deposit box for purposes of division (B)(4) 8695
of this section. 8696

(E) The director of commerce shall not recognize or make any 8697
delivery and the ~~auditor of state~~ director of budget and 8698
management shall not make any payment pursuant to any power of 8699
attorney between an owner of the unclaimed funds or contents of a 8700
safe deposit box and the person with whom the owner entered into 8701
an agreement pursuant to division (B)(2) of this section to 8702
locate, deliver, recover, or assist in the recovery of the 8703
unclaimed funds or contents of a safe deposit box if that power of 8704
attorney is entered into on or after ~~the effective date of this~~ 8705
~~amendment~~ March 23, 2007, and that power of attorney specifically 8706
provides for the payment of unclaimed funds or delivery of the 8707
contents of a safe deposit box to any person other than the owner 8708
of the unclaimed funds or contents of a safe deposit box. Nothing 8709
in this section shall be construed as prohibiting the payment of 8710
unclaimed funds or delivery of the contents of a safe deposit box 8711
to the legal representative of the owner of the unclaimed funds or 8712
contents of the safe deposit box. Notwithstanding the definition 8713
of "owner" specified in division (C) of section 169.01 of the 8714
Revised Code, for purposes of the payment of unclaimed funds or 8715
delivery of the contents of the safe deposit box, a person with 8716
whom an owner entered into an agreement under division (B)(2) of 8717
this section is not a legal representative. 8718

Sec. 169.14. (A) Each person that files a claim with the 8719
director of commerce, pursuant to an agreement entered into under 8720
division (B) of section 169.13 of the Revised Code, shall include 8721
with that claim a copy of the agreement and the number designated 8722
on the certificate of registration that is issued to the person 8723
under section 169.16 of the Revised Code. 8724

(B) The division of unclaimed funds shall not process any 8725
claim described in division (A) of this section that does not 8726
include the required certificate of registration number. 8727

(C) The director of budget and management shall pay from the 8728
unclaimed funds any legal amount specified in an agreement entered 8729
into under division (B) of section 169.13 of the Revised Code to 8730
compensate a person registered under section 169.16 of the Revised 8731
Code for services performed pursuant to the agreement, shall pay 8732
the amount directly to the registrant, less any fee established 8733
pursuant to division (D) of this section, and shall pay any 8734
remaining unclaimed funds directly to the owner. 8735

(D) The director of commerce may establish a reasonable fee 8736
for the processing and delivery of any payment made to a 8737
registrant pursuant to an agreement under division (B) of section 8738
169.13 of the Revised Code. 8739

Sec. 169.16. (A) No person, on behalf of any other person, 8740
shall engage in any activity for the purpose of locating, 8741
delivering, recovering, or assisting in the recovery of ~~unclaimed~~ 8742
~~funds~~ property presumed abandoned or contents of a safe deposit 8743
box, and receive a fee, compensation, commission, or other 8744
remuneration for such activity, without first having obtained a 8745
certificate of registration from the director of commerce in 8746
accordance with this section. 8747

(B) An application for a certificate of registration shall be 8748

in writing and in the form prescribed by the director. The 8749
application shall be accompanied by a recent full-face color 8750
photograph of the applicant and notarized character reference 8751
letters from two reputable character witnesses. The application 8752
shall, at a minimum, provide all of the following: 8753

(1) The applicant's full name, home address, and work 8754
address; 8755

(2) The name, address, and telephone number of the two 8756
character witnesses who have provided the character reference 8757
letters; 8758

(3) A statement that the applicant has not, during the 8759
ten-year period immediately preceding the submission of the 8760
application, violated division (A) of this section on or after the 8761
effective date of this section, or division (C) of section 169.13 8762
of the Revised Code, or been convicted of, or pleaded guilty to, 8763
any felony or any offense involving moral turpitude, including 8764
theft, attempted theft, falsification, tampering with records, 8765
securing writings by deception, fraud, forgery, and perjury; 8766

(4) The notarized signature of the applicant immediately 8767
following an acknowledgment that any false or perjured statement 8768
subjects the applicant to criminal liability under section 2921.13 8769
of the Revised Code. 8770

(C) Upon the filing of the application with the division of 8771
unclaimed funds, the division may investigate the applicant to 8772
verify the information provided in the application and to 8773
determine the applicant's eligibility for a certificate of 8774
registration under this section. The superintendent of unclaimed 8775
funds shall request the superintendent of the bureau of criminal 8776
identification and investigation, or a vendor approved by the 8777
bureau, to conduct a criminal records check based on the 8778
applicant's fingerprints in accordance with division (A)(11) of 8779

section 109.572 of the Revised Code. Notwithstanding division (K) 8780
of section 121.08 of the Revised Code, the superintendent of 8781
unclaimed funds shall request that criminal record information 8782
from the federal bureau of investigation be obtained as part of 8783
the criminal records check. Any fee required under division (C)(3) 8784
of section 109.572 of the Revised Code shall be paid by the 8785
applicant. False information on an application is grounds for the 8786
denial or revocation of the applicant's certificate of 8787
registration. 8788

(D) The director shall issue a certificate of registration to 8789
an applicant if the director finds that the following conditions 8790
are met: 8791

(1) The applicant has not, during the ten-year period 8792
immediately preceding the submission of the application, violated 8793
division (A) of this section on or after the effective date of 8794
this section, or division (C) of section 169.13 of the Revised 8795
Code, or been convicted of, or pleaded guilty to, any felony or 8796
any offense involving moral turpitude, including theft, attempted 8797
theft, falsification, tampering with records, securing writings by 8798
deception, fraud, forgery, and perjury. 8799

(2) The applicant's character and general fitness command the 8800
confidence of the public and warrant the belief that the 8801
applicant's business will be conducted honestly and fairly. 8802

(E) The certificate of registration issued pursuant to 8803
division (D) of this section may be renewed annually if the 8804
director finds that the following conditions are met: 8805

(1) The applicant submits a renewal application form 8806
prescribed by the director. 8807

(2) The applicant meets the conditions set forth in division 8808
(D) of this section. 8809

(3) The applicant's certificate of registration is not 8810

subject to an order of revocation by the director. 8811

Sec. 173.14. As used in sections 173.14 to 173.27 of the 8812
Revised Code: 8813

(A)(1) Except as otherwise provided in division (A)(2) of 8814
this section, "long-term care facility" includes any residential 8815
facility that provides personal care services for more than 8816
twenty-four hours for two or more unrelated adults, including all 8817
of the following: 8818

(a) A "nursing home," "residential care facility," or "home 8819
for the aging" as defined in section 3721.01 of the Revised Code; 8820

(b) A facility authorized to provide extended care services 8821
under Title XVIII of the "Social Security Act," 49 Stat. 620 8822
(1935), 42 U.S.C. 301, as amended, including a long-term acute 8823
care hospital that provides medical and rehabilitative care to 8824
patients who require an average length of stay greater than 8825
twenty-five days and is classified by the centers for medicare and 8826
medicaid services as a long-term care hospital pursuant to 42 8827
C.F.R. 412.23(e); 8828

(c) A county home or district home operated pursuant to 8829
Chapter 5155. of the Revised Code; 8830

(d) ~~An "adult care~~ A residential facility ~~as defined in~~ 8831
licensed under section 5119.70 5119.22 of the Revised Code that 8832
provides accommodations, supervision, and personal care services 8833
for three to sixteen unrelated adults; 8834

(e) A facility approved by the veterans administration under 8835
section 104(a) of the "Veterans Health Care Amendments of 1983," 8836
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 8837
the placement and care of veterans; 8838

(f) An adult foster home certified under section 5119.692 of 8839
the Revised Code. 8840

(2) "Long-term care facility" does not include a ~~"residential facility" as defined in section 5119.22 of the Revised Code or a "residential facility" as defined in licensed under~~ section 5123.19 of the Revised Code.

(B) "Resident" means a resident of a long-term care facility and, where appropriate, includes a prospective, previous, or deceased resident of a long-term care facility.

(C) "Community-based long-term care services" means health and social services provided to persons in their own homes or in community care settings, and includes any of the following:

(1) Case management;

(2) Home health care;

(3) Homemaker services;

(4) Chore services;

(5) Respite care;

(6) Adult day care;

(7) Home-delivered meals;

(8) Personal care;

(9) Physical, occupational, and speech therapy;

(10) Transportation;

(11) Any other health and social services provided to persons that allow them to retain their independence in their own homes or in community care settings.

(D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services.

(E) "Sponsor" means an adult relative, friend, or guardian

who has an interest in or responsibility for the welfare of a 8869
resident or a recipient. 8870

(F) "Personal care services" has the same meaning as in 8871
section 3721.01 of the Revised Code. 8872

(G) "Regional long-term care ombudsperson program" means an 8873
entity, either public or private and nonprofit, designated as a 8874
regional long-term care ombudsperson program by the state 8875
long-term care ombudsperson. 8876

(H) "Representative of the office of the state long-term care 8877
ombudsperson program" means the state long-term care ombudsperson 8878
or a member of the ombudsperson's staff, or a person certified as 8879
a representative of the office under section 173.21 of the Revised 8880
Code. 8881

(I) "Area agency on aging" means an area agency on aging 8882
established under the "Older Americans Act of 1965," 79 Stat. 219, 8883
42 U.S.C.A. 3001, as amended. 8884

Sec. 173.21. (A) The office of the state long-term care 8885
ombudsperson program, through the state long-term care 8886
ombudsperson and the regional long-term care ombudsperson 8887
programs, shall require each representative of the office to 8888
complete a training and certification program in accordance with 8889
this section and to meet the continuing education requirements 8890
established under this section. 8891

(B) The department of aging shall adopt rules under Chapter 8892
119. of the Revised Code specifying the content of training 8893
programs for representatives of the office of the state long-term 8894
care ombudsperson program. Training for representatives other than 8895
those who are volunteers providing services through regional 8896
long-term care ombudsperson programs shall include instruction 8897
regarding federal, state, and local laws, rules, and policies on 8898

long-term care facilities and community-based long-term care 8899
services; investigative techniques; and other topics considered 8900
relevant by the department and shall consist of the following: 8901

(1) A minimum of forty clock hours of basic instruction, 8902
which shall be completed before the trainee is permitted to handle 8903
complaints without the supervision of a representative of the 8904
office certified under this section; 8905

(2) An additional sixty clock hours of instruction, which 8906
shall be completed within the first fifteen months of employment; 8907

(3) An internship of twenty clock hours, which shall be 8908
completed within the first twenty-four months of employment, 8909
including instruction in, and observation of, basic nursing care 8910
and long-term care provider operations and procedures. The 8911
internship shall be performed at a site that has been approved as 8912
an internship site by the state long-term care ombudsperson. 8913

(4) One of the following, which shall be completed within the 8914
first twenty-four months of employment: 8915

(a) Observation of a survey conducted by the director of 8916
health to certify a facility to receive funds under sections 8917
5111.20 to 5111.32 of the Revised Code; 8918

(b) Observation of an inspection conducted by the director of 8919
mental health to license ~~an adult care~~ a residential facility 8920
under section ~~5119.73~~ 5119.22 of the Revised Code that provides 8921
accommodations, supervision, and personal care services for three 8922
to sixteen unrelated adults. 8923

(5) Any other training considered appropriate by the 8924
department. 8925

(C) Persons who for a period of at least six months prior to 8926
June 11, 1990, served as ombudsmen through the long-term care 8927
ombudsperson program established by the department of aging under 8928

division (M) of section 173.01 of the Revised Code shall not be 8929
required to complete a training program. These persons and persons 8930
who complete a training program shall take an examination 8931
administered by the department of aging. On attainment of a 8932
passing score, the person shall be certified by the department as 8933
a representative of the office. The department shall issue the 8934
person an identification card, which the representative shall show 8935
at the request of any person with whom the representative deals 8936
while performing the representative's duties and which shall be 8937
surrendered at the time the representative separates from the 8938
office. 8939

(D) The state ombudsperson and each regional program shall 8940
conduct training programs for volunteers on their respective 8941
staffs in accordance with the rules of the department of aging 8942
adopted under division (B) of this section. Training programs may 8943
be conducted that train volunteers to complete some, but not all, 8944
of the duties of a representative of the office. Each regional 8945
office shall bear the cost of training its representatives who are 8946
volunteers. On completion of a training program, the 8947
representative shall take an examination administered by the 8948
department of aging. On attainment of a passing score, a volunteer 8949
shall be certified by the department as a representative 8950
authorized to perform services specified in the certification. The 8951
department shall issue an identification card, which the 8952
representative shall show at the request of any person with whom 8953
the representative deals while performing the representative's 8954
duties and which shall be surrendered at the time the 8955
representative separates from the office. Except as a supervised 8956
part of a training program, no volunteer shall perform any duty 8957
unless he is certified as a representative having received 8958
appropriate training for that duty. 8959

(E) The state ombudsperson shall provide technical assistance 8960

to regional programs conducting training programs for volunteers 8961
and shall monitor the training programs. 8962

(F) Prior to scheduling an observation of a certification 8963
survey or licensing inspection for purposes of division (B)(4) of 8964
this section, the state ombudsperson shall obtain permission to 8965
have the survey or inspection observed from both the director of 8966
health and the long-term care facility at which the survey or 8967
inspection is to take place. 8968

(G) The department of aging shall establish continuing 8969
education requirements for representatives of the office. 8970

Sec. 173.23. (A) Representatives of the office of the state 8971
long-term care ombudsperson program are immune from civil or 8972
criminal liability for any action taken in the good faith 8973
performance of their official duties under sections 173.14 to 8974
173.26 of the Revised Code. ~~The department of aging shall ensure 8975
that adequate legal counsel is available to the office of the 8976
state long term care ombudsperson program for advice and 8977
consultation and that legal representation is provided to any 8978
representative of the office against whom any legal action is 8979
brought in connection with the representative's official duties 8980
under sections 173.14 to 173.26 of the Revised Code. 8981~~

(B) A person acting in good faith is immune from civil or 8982
criminal liability incident to any of the following: providing 8983
information to the office, participating in registration of a 8984
complaint with the office, participating in investigation of a 8985
complaint by the office, or participating in an administrative or 8986
judicial proceeding resulting from a complaint. 8987

(C) No person shall knowingly register a false complaint with 8988
the office, or knowingly swear or affirm the truth of a false 8989
complaint previously registered, when the statement is made with 8990
purpose to incriminate another. 8991

(D) The attorney general shall provide legal counsel to the office of the state long-term care ombudsperson program and to the regional long-term care ombudsperson programs. The attorney general shall represent any representative of the office and any representative of a regional program against whom any legal action is brought in connection with the representative's official duties under sections 173.14 to 173.26 of the Revised Code.

Sec. 173.26. (A) Each of the following facilities shall annually pay to the department of aging six dollars for each bed maintained by the facility for use by a resident during any part of the previous year:

(1) Nursing homes, residential care facilities, and homes for the aging as defined in section 3721.01 of the Revised Code;

(2) Facilities authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, including a long-term acute care hospital that provides medical and rehabilitative care to patients who require an average length of stay greater than twenty-five days and is classified by the centers for medicare and medicaid services as a long-term care hospital pursuant to 42 C.F.R. 412.23(e);

(3) County homes and district homes operated pursuant to Chapter 5155. of the Revised Code;

(4) ~~Adult-care Residential~~ facilities ~~as defined in~~ licensed under section ~~5119.70~~ 5119.22 of the Revised Code that provide accommodations, supervision, and personal care services for three to sixteen unrelated adults;

(5) Facilities 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. 9022

The department shall, by rule adopted in accordance with 9023
Chapter 119. of the Revised Code, establish deadlines for payments 9024
required by this section. A facility that fails, within ninety 9025
days after the established deadline, to pay a payment required by 9026
this section shall be assessed at two times the original invoiced 9027
payment. 9028

(B) All money collected under this section shall be deposited 9029
in the state treasury to the credit of the office of the state 9030
long-term care ombudsperson program fund, which is hereby created. 9031
Money credited to the fund shall be used solely to pay the costs 9032
of operating the regional long-term care ombudsperson programs. 9033

(C) The state long-term care ombudsperson and the regional 9034
programs may solicit and receive contributions to support the 9035
operation of the office or a regional program, except that no 9036
contribution shall be solicited or accepted that would interfere 9037
with the independence or objectivity of the office or program. 9038

Sec. 173.27. (A) As used in this section: 9039

(1) "Applicant" means a person who is under final 9040
consideration for employment with the office of the state 9041
long-term care ombudsperson program in a full-time, part-time, or 9042
temporary position that involves providing ombudsperson services 9043
to residents and recipients. "Applicant" includes, ~~but is not~~ 9044
~~limited to,~~ a person who is under final consideration for 9045
employment as the state long-term care ombudsperson or the head of 9046
a regional long-term care ombudsperson program. "Applicant" does 9047
not include a person ~~who provides~~ seeking to provide ombudsperson 9048
services to residents and recipients as a volunteer without 9049
receiving or expecting to receive any form of remuneration other 9050
than reimbursement for actual expenses. 9051

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 9052
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(3) "Disqualifying offense" means any of the following: 9054

(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, 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, 2919.23, 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, 2925.11, 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; 9055
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(b) Felonious sexual penetration in violation of former section 2907.12 of the Revised Code; 9073
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(c) A violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996; 9075
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(d) A violation 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)(3)(a) to (c) of this section; 9077
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(e) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that 9081
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is substantially equivalent to any of the offenses listed in 9083
divisions (A)(3)(a) to (d) of this section. 9084

(4) "Employee" means a person employed by the office of the 9085
state long-term care ombudsperson program in a full-time, 9086
part-time, or temporary position that involves providing 9087
ombudsperson services to residents and recipients. "Employee" 9088
includes the person employed as the state long-term care 9089
ombudsperson and a person employed as the head of a regional 9090
long-term care ombudsperson program. "Employee" does not include a 9091
person who provides ombudsperson services to residents and 9092
recipients as a volunteer without receiving or expecting to 9093
receive any form of remuneration other than reimbursement for 9094
actual expenses. 9095

(5) "Responsible entity" means the following: 9096

(a) In the case of an applicant who is under final 9097
consideration for employment as the state long-term care 9098
ombudsperson or the person employed as the state long-term care 9099
ombudsperson, the director of aging; 9100

(b) In the case of any other applicant or employee, the state 9101
long-term care ombudsperson or the ombudsperson's designee. 9102

(B) The office of the state long-term care ombudsperson 9103
program may not employ an applicant or continue to employ an 9104
employee in a position that involves providing ombudsperson 9105
services to residents and recipients if any of the following 9106
apply: 9107

(1) A review of the databases listed in division (D) of this 9108
section reveals any of the following: 9109

(a) That the applicant or employee is included in one or more 9110
of the databases listed in divisions (D)(1) to (5) of this 9111
section; 9112

(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; 9113
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(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. 9119
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(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. 9125
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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. 9132
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(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: 9137
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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 office of the state long-term care ombudsperson program is prohibited by 9141
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division (B)(1) of this section from employing the applicant in 9144
the position; 9145

(2) That, unless the database review reveals that the 9146
applicant may not be employed in the position, a criminal records 9147
check of the applicant will be conducted and the applicant is 9148
required to provide a set of the applicant's fingerprint 9149
impressions as part of the criminal records check. 9150

(D) As a condition of any applicant's being employed by the 9151
office of the state long-term care ombudsperson program in a 9152
position that involves providing ombudsperson services to 9153
residents and recipients, the responsible entity shall conduct a 9154
database review of the applicant in accordance with rules adopted 9155
under this section. If rules adopted under this section so 9156
require, the responsible entity shall conduct a database review of 9157
an employee in accordance with the rules as a condition of the 9158
office's continuing to employ the employee in a position that 9159
involves providing ombudsperson services to residents and 9160
recipients. A database review shall determine whether the 9161
applicant or employee is included in any of the following: 9162

(1) The excluded parties list system maintained by the United 9163
States general services administration pursuant to subpart 9.4 of 9164
the federal acquisition regulation; 9165

(2) The list of excluded individuals and entities maintained 9166
by the office of inspector general in the United States department 9167
of health and human services pursuant to section 1128 of the 9168
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 9169
amended, and section 1156 of the "Social Security Act," 96 Stat. 9170
388 (1982), 42 U.S.C. 1320c-5, as amended; 9171

(3) The registry of MR/DD employees established under section 9172
5123.52 of the Revised Code; 9173

(4) The internet-based sex offender and child-victim offender 9174

database established under division (A)(11) of section 2950.13 of 9175
the Revised Code; 9176

(5) The internet-based database of inmates established under 9177
section 5120.66 of the Revised Code; 9178

(6) The state nurse aide registry established under section 9179
3721.32 of the Revised Code; 9180

(7) Any other database, if any, specified in rules adopted 9181
under this section. 9182

~~(E)(1) The state long term care ombudsperson or the~~ 9183
~~ombudsperson's designee~~ As a condition of any applicant's being 9184
employed by the office of the state long-term care ombudsperson 9185
program in a position that involves providing ombudsperson 9186
services to residents and recipients, the responsible entity shall 9187
request that the superintendent of the bureau of criminal 9188
identification and investigation conduct a criminal records check 9189
~~with respect to each~~ of the applicant. If rules adopted under this 9190
section so require, the responsible entity shall request that the 9191
superintendent conduct a criminal records check of an employee at 9192
times specified in the rules as a condition of the office's 9193
continuing to employ the employee in a position that involves 9194
providing ombudsperson services to residents and recipients. 9195
~~However, if the applicant is under final consideration for~~ 9196
~~employment as the state long term care ombudsperson, the director~~ 9197
~~of aging shall request that the superintendent conduct the~~ 9198
~~criminal records check~~ the responsible entity is not required to 9199
request the criminal records check of the applicant or employee if 9200
the office is prohibited by division (B)(1) of this section from 9201
employing the applicant or continuing to employ the employee in a 9202
position that involves providing ombudsperson services to 9203
residents and recipients. If an applicant or employee for whom a 9204
criminal records check request is required ~~under~~ by this division 9205
section does not present proof of having been a resident of this 9206

state for the five-year period immediately prior to the date the 9207
criminal records check is requested or provide evidence that 9208
within that five-year period the superintendent has requested 9209
information about the applicant or employee from the federal 9210
bureau of investigation in a criminal records check, the 9211
~~ombudsperson, designee, or director~~ responsible entity shall 9212
request that the superintendent obtain information from the 9213
federal bureau of investigation as part of the criminal records 9214
check ~~of the applicant~~. Even if an applicant or employee for whom 9215
a criminal records check request is required ~~under~~ by this 9216
~~division section~~ presents proof of having been a resident of this 9217
state for the five-year period, the ~~ombudsperson, designee, or~~ 9218
~~director~~ responsible entity may request that the superintendent 9219
include information from the federal bureau of investigation in 9220
the criminal records check. 9221

(2) ~~A person required by division (B)(1) of this section to~~ 9222
~~request a criminal records check~~ The responsible entity shall do 9223
~~both~~ all of the following: 9224

(a) Provide to each applicant and employee for whom a 9225
criminal records check request is required ~~under that division~~ by 9226
this section a copy of the form prescribed pursuant to division 9227
(C)(1) of section 109.572 of the Revised Code and a standard 9228
~~fingerprint~~ impression sheet prescribed pursuant to division 9229
(C)(2) of that section, ~~and obtain;~~ 9230

(b) Obtain the completed form and standard impression sheet 9231
from the applicant or employee; 9232

~~(b)(c)~~ (c) Forward the completed form and standard impression 9233
sheet to the superintendent ~~of the bureau of criminal~~ 9234
~~identification and investigation.~~ 9235

(3) ~~An applicant provided the form and fingerprint impression~~ 9236
~~sheet under division (B)(2)(a) of this section who fails to~~ 9237

~~complete the form or provide fingerprint impressions shall not be~~ 9238
~~employed in any position for which a criminal records check is~~ 9239
~~required by this section.~~ 9240

~~(C)(1) Except as provided in rules adopted by the director of~~ 9241
~~aging in accordance with division (F) of this section and subject~~ 9242
~~to division (C)(2) of this section, the office of the state~~ 9243
~~long-term care ombudsperson may not employ a person in a position~~ 9244
~~that involves providing ombudsperson services to residents and~~ 9245
~~recipients if the person has been convicted of or pleaded guilty~~ 9246
~~to any of the following:~~ 9247

~~(a) A violation of section 2903.01, 2903.02, 2903.03,~~ 9248
~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,~~ 9249
~~2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05,~~ 9250
~~2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31,~~ 9251
~~2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11,~~ 9252
~~2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21,~~ 9253
~~2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36,~~ 9254
~~2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13,~~ 9255
~~2925.22, 2925.23, or 3716.11 of the Revised Code.~~ 9256

~~(b) A violation of an existing or former law of this state,~~ 9257
~~any other state, or the United States that is substantially~~ 9258
~~equivalent to any of the offenses listed in division (C)(1)(a) of~~ 9259
~~this section.~~ 9260

(2)(a) The office of the state long-term care ombudsperson 9261
program shall pay to the bureau of criminal identification and 9262
investigation the fee prescribed pursuant to division (C)(3) of 9263
section 109.572 of the Revised Code for each criminal records 9264
check the responsible entity requests under this section. The 9265
office may charge an applicant a fee not exceeding the amount the 9266
office pays to the bureau under this section if the responsible 9267
entity notifies the applicant at the time of initial application 9268
for employment of the amount of the fee. 9269

(F)(1) The office of the state long-term care ombudsperson 9270
program may employ conditionally an applicant for whom a criminal 9271
records check ~~request~~ is required ~~under division (B) of~~ by this 9272
section prior to obtaining the results of a the criminal records 9273
check ~~regarding the individual, provided that the state long term~~ 9274
~~care ombudsperson, ombudsperson's designee, or director of aging~~ 9275
~~shall request a~~ if the office is not prohibited by division (B)(1) 9276
of this section from employing the applicant in a position that 9277
involves providing ombudsperson services to residents and 9278
recipients and the responsible entity requests the criminal 9279
records check ~~regarding the individual~~ in accordance with division 9280
~~(B)(1)(E)~~ of this section not later than five business days after 9281
the ~~individual~~ applicant begins conditional employment. 9282

~~(b)(2)~~ The office of the state long-term care ombudsperson 9283
program shall terminate the employment of an ~~individual~~ applicant 9284
employed conditionally under division ~~(C)(2)(a)(F)(1)~~ of this 9285
section if the results of the criminal records check ~~request under~~ 9286
~~division (B) of this section~~, other than the results of any 9287
request for information from the federal bureau of investigation, 9288
are not obtained within the period ending sixty days after the 9289
date the request for the criminal records check is made. 9290
Regardless of when the results of the criminal records check are 9291
obtained, if the results indicate that the ~~individual~~ applicant 9292
has been convicted of ~~or~~ pleaded guilty to any of the offenses 9293
~~listed or described in division (C)(1) of this section, or been~~ 9294
found eligible for intervention in lieu of conviction for a 9295
disqualifying offense, the office shall terminate the ~~individual's~~ 9296
applicant's employment unless circumstances specified in rules 9297
adopted under this section that permit the office to employ the 9298
applicant exist and the office chooses to employ the ~~individual~~ 9299
~~pursuant to division (F) of this section~~ applicant. Termination of 9300
employment under this division shall be considered just cause for 9301
discharge for purposes of division (D)(2) of section 4141.29 of 9302

the Revised Code if the ~~individual~~ applicant makes any attempt to 9303
deceive the office about the ~~individual's~~ applicant's criminal 9304
record. 9305

~~(D)(1) The office of the state long term care ombudsperson 9306
program shall pay to the bureau of criminal identification and 9307
investigation the fee prescribed pursuant to division (C)(3) of 9308
section 109.572 of the Revised Code for each criminal records 9309
check conducted pursuant to a request made under division (B) of 9310
this section. 9311~~

~~(2) The office of the state long term care ombudsperson 9312
program may charge an applicant a fee not exceeding the amount the 9313
office pays under division (D)(1) of this section. The office may 9314
collect a fee only if the office notifies the applicant at the 9315
time of initial application for employment of the amount of the 9316
fee. 9317~~

~~(E)(G) The report of any criminal records check conducted 9318
pursuant to a request made under this section is not a public 9319
record for the purposes of section 149.43 of the Revised Code and 9320
shall not be made available to any person other than the 9321
following: 9322~~

~~(1) The ~~individual~~ applicant or employee who is the subject 9323
of the criminal records check or the ~~individual's~~ applicant's or 9324
employee's representative; 9325~~

~~(2) The ~~state long term care ombudsperson, ombudsperson's~~ 9326
~~designee, director of aging, responsible entity~~ or the 9327
~~ombudsperson, designee, or director's~~ responsible entity's 9328
representative; 9329~~

~~(3) If the state long-term care ombudsperson designates the 9330
head or other employee of a regional long-term care ombudsperson 9331
program to request a criminal records check under this section, a 9332
representative of the office of the state long-term care 9333~~

ombudsperson program who is responsible for monitoring the 9334
regional program's compliance with this section; 9335

(4) A court, hearing officer, or other necessary individual 9336
involved in a case dealing with ~~a~~ any of the following: 9337

~~(a) A denial of employment of the applicant or dealing with~~ 9338
~~employment~~ employee; 9339

~~(b) Employment~~ or unemployment benefits of the applicant or 9340
employee; 9341

~~(c) A civil or criminal action regarding the medicaid program~~ 9342
or a program the department of aging administers. 9343

~~(F) The director of aging shall adopt rules in accordance~~ 9344
~~with Chapter 119. of the Revised Code to implement this section.~~ 9345
~~The rules shall specify circumstances under which the office of~~ 9346
~~the state long term care ombudsperson program may employ a person~~ 9347
~~who has been convicted of or pleaded guilty to an offense listed~~ 9348
~~or described in division (C)(1) of this section but meets personal~~ 9349
~~character standards set by the director.~~ 9350

~~(G) The office of the state long term care ombudsperson~~ 9351
~~program shall inform each person, at the time of initial~~ 9352
~~application for a position that involves providing ombudsperson~~ 9353
~~services to residents and recipients, that the person is required~~ 9354
~~to provide a set of fingerprint impressions and that a criminal~~ 9355
~~records check is required to be conducted if the person comes~~ 9356
~~under final consideration for employment.~~ 9357

(H) In a tort or other civil action for damages that is 9358
brought as the result of an injury, death, or loss to person or 9359
property caused by an ~~individual~~ applicant or employee who the 9360
office of the state long-term care ombudsperson program employs in 9361
a position that involves providing ombudsperson services to 9362
residents and recipients, all of the following shall apply: 9363

(1) If the office 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 office 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 office employed the ~~individual applicant~~ in good faith on a conditional basis pursuant to division ~~(C)(2)(F)~~ of this section, the office 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 office 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 office shall not be found negligent solely because the ~~individual prior to being employed had~~ applicant or employee has been convicted of ~~or~~, pleaded guilty to ~~an offense listed or~~ described in division (C)(1) of this section, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(I) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a

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| <u>database review conducted under this section.</u> | 9395 |
| <u>(2) The rules shall specify all of the following:</u> | 9396 |
| <u>(a) The procedures for conducting database reviews under this section;</u> | 9397 |
| | 9398 |
| <u>(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;</u> | 9399 |
| | 9400 |
| | 9401 |
| | 9402 |
| <u>(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which the office of the state long-term care ombudsperson program is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;</u> | 9403 |
| | 9404 |
| | 9405 |
| | 9406 |
| | 9407 |
| | 9408 |
| <u>(d) Circumstances under which the office of the state long-term care ombudsperson program may employ an applicant or employee who 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 but meets personal character standards.</u> | 9409 |
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| Sec. 173.391. (A) The department of aging or its designee shall do all of the following in accordance with Chapter 119. of the Revised Code: | 9415 |
| | 9416 |
| | 9417 |
| (1) Certify a person or government entity to provide community-based long-term care services under a program the department administers if the person or government entity satisfies the requirements for certification established by rules adopted under division (B) of this section and pays the fee, if any, established by rules adopted under division (G) of this section; | 9418 |
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| (2) When required to do so by rules adopted under division | 9425 |
| (B) of this section, take one or more of the following | 9426 |
| disciplinary actions against a person or government entity | 9427 |
| certified under division (A)(1) of this section: | 9428 |
| (a) Issue a written warning; | 9429 |
| (b) Require the submission of a plan of correction or | 9430 |
| evidence of compliance with requirements identified by the | 9431 |
| department; | 9432 |
| (c) Suspend referrals; | 9433 |
| (d) Remove clients; | 9434 |
| (e) Impose a fiscal sanction such as a civil monetary penalty | 9435 |
| or an order that unearned funds be repaid; | 9436 |
| (f) Suspend the certification; | 9437 |
| (g) Revoke the certification; | 9438 |
| (h) Impose another sanction. | 9439 |
| (3) Except as provided in division (E) of this section, hold | 9440 |
| hearings when there is a dispute between the department or its | 9441 |
| designee and a person or government entity concerning actions the | 9442 |
| department or its designee takes regarding a decision not to | 9443 |
| certify the person or government entity under division (A)(1) of | 9444 |
| this section or a disciplinary action under division <u>divisions</u> | 9445 |
| (A)(2)(e) to (h) of this section. | 9446 |
| (B) The director of aging shall adopt rules in accordance | 9447 |
| with Chapter 119. of the Revised Code establishing certification | 9448 |
| requirements and standards for determining which type of | 9449 |
| disciplinary action to take under division (A)(2) of this section | 9450 |
| in individual situations. The rules shall establish procedures for | 9451 |
| all of the following: | 9452 |
| (1) Ensuring that community-based long-term care agencies | 9453 |
| comply with section 173.394 of the Revised Code; | 9454 |

| | |
|---|--|
| (2) Evaluating the services provided by the agencies to ensure that the services are provided in a quality manner advantageous to the individual receiving the services; | 9455 9456 9457 |
| (3) Determining when to take disciplinary action under division (A)(2) of this section and which disciplinary action to take; | 9458 9459 9460 |
| (4) Determining what constitutes another sanction for purposes of division (A)(2)(h) of this section. | 9461 9462 |
| (C) The procedures established in rules adopted under division (B)(2) of this section shall require that all of the following be considered as part of an evaluation described in division (B)(2) of this section: | 9463 9464 9465 9466 |
| (1) The community-based long-term care agency's experience and financial responsibility; | 9467 9468 |
| (2) The agency's ability to comply with standards for the community-based long-term care services that the agency provides under a program the department administers; | 9469 9470 9471 |
| (3) The agency's ability to meet the needs of the individuals served; | 9472 9473 |
| (4) Any other factor the director considers relevant. | 9474 |
| (D) The rules adopted under division (B)(3) of this section shall specify that the reasons disciplinary action may be taken under division (A)(2) of this section include good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct the director determines is injurious, or poses a threat, to the health or safety of individuals being served. | 9475 9476 9477 9478 9479 9480 9481 |
| (E) Subject to division (F) of this section, the department is not required to hold hearings under division (A)(3) of this section if any of the following conditions apply: | 9482 9483 9484 |

(1) Rules adopted by the director of aging pursuant to this chapter require the community-based long-term care agency to be a party to a provider agreement; hold a license, certificate, or permit; or maintain a certification, any of which is required or issued by a state or federal government entity other than the department of aging, and either of the following is the case:

(a) The provider agreement has not been entered into or the license, certificate, permit, or certification has not been obtained or maintained.

(b) The provider agreement, license, certificate, permit, or certification has been denied, revoked, not renewed, or suspended or has been otherwise restricted.

(2) The agency's certification under this section has been denied, suspended, or revoked for any of the following reasons:

(a) A government entity of this state, other than the department of aging, has terminated or refused to renew any of the following held by, or has denied any of the following sought by, a community-based long-term care agency: a provider agreement, license, certificate, permit, or certification. Division (E)(2)(a) of this section applies regardless of whether the agency has entered into a provider agreement in, or holds a license, certificate, permit, or certification issued by, another state.

(b) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, or has been convicted of, an offense materially related to the medicaid program.

(c) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, ~~or~~ been convicted of, or been found eligible for intervention in lieu of conviction for an offense listed in ~~division (C)(1)(a)~~ divisions (A)(3)(a) to (d) of section 173.394 of the Revised Code, but only

if none of the personal character standards established by the 9516
department director in rules adopted under ~~division (F) of that~~ 9517
section ~~173.394 of the Revised Code~~ apply. 9518

(d) The United States department of health and human services 9519
has taken adverse action against the agency and that action 9520
impacts the agency's participation in the medicaid program. 9521

(e) The agency has failed to enter into or renew a provider 9522
agreement with the PASSPORT administrative agency, as that term is 9523
defined in section 173.42 of the Revised Code, that administers 9524
programs on behalf of the department of aging in the region of the 9525
state in which the agency is certified to provide services. 9526

(f) The agency has not billed or otherwise submitted a claim 9527
to the department for payment under the medicaid program in at 9528
least two years. 9529

(g) The agency denied or failed to provide the department or 9530
its designee access to the agency's facilities during the agency's 9531
normal business hours for purposes of conducting an audit or 9532
structural compliance review. 9533

(h) The agency has ceased doing business. 9534

(i) The agency has voluntarily relinquished its certification 9535
for any reason. 9536

(3) The agency's provider agreement with the department of 9537
job and family services has been suspended under division (C) of 9538
section 5111.031 of the Revised Code. 9539

(4) The agency's provider agreement with the department of 9540
job and family services is denied or revoked because the agency or 9541
its owner, officer, authorized agent, associate, manager, or 9542
employee has been convicted of an offense that caused the provider 9543
agreement to be suspended under section 5111.031 of the Revised 9544
Code. 9545

(F) If the department does not hold hearings when any 9546
condition described in division (E) of this section applies, the 9547
department may send a notice to the agency describing a decision 9548
not to certify the agency under division (A)(1) of this section or 9549
the disciplinary action the department proposes to take under 9550
division (A)(2)(e) to (h) of this section. The notice shall be 9551
sent to the agency's address that is on record with the department 9552
and may be sent by regular mail. 9553

(G) The director of aging may adopt rules in accordance with 9554
Chapter 119. of the Revised Code establishing a fee to be charged 9555
by the department of aging or its designee for certification 9556
issued under this section. 9557

All fees collected by the department or its designee under 9558
this section shall be deposited in the state treasury to the 9559
credit of the provider certification fund, which is hereby 9560
created. Money credited to the fund shall be used to pay for 9561
community-based long-term care services, administrative costs 9562
associated with community-based long-term care agency 9563
certification under this section, and administrative costs related 9564
to the publication of the Ohio long-term care consumer guide. 9565

Sec. 173.394. (A) As used in this section: 9566

(1) "Applicant" means a person who is under final 9567
consideration for employment with a community-based long-term care 9568
agency in a full-time, part-time, or temporary position that 9569
involves providing direct care to an individual or is referred to 9570
a community-based long-term care agency by an employment service 9571
for such a position. "Applicant" does not include a person who 9572
provides direct care to an individual as a volunteer without 9573
receiving or expecting to receive any form of remuneration other 9574
than reimbursement for actual expenses. 9575

(2) "Criminal records check" has the same meaning as in 9576

section 109.572 of the Revised Code. 9577

(3) "Disqualifying offense" means any of the following: 9578

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 9579
2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 9580
2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 9581
2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 9582
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 9583
2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 9584
2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 9585
2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 9586
2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 9587
2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 9588
2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 9589
2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 9590
2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24, 9591
2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 9592
2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 9593
2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 9594
2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 9595
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code; 9596

(b) Felonious sexual penetration in violation of former 9597
section 2907.12 of the Revised Code; 9598

(c) A violation of section 2905.04 of the Revised Code as it 9599
existed prior to July 1, 1996; 9600

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 9601
the Revised Code when the underlying offense that is the object of 9602
the conspiracy, attempt, or complicity is one of the offenses 9603
listed in divisions (A)(3)(a) to (c) of this section; 9604

(e) A violation of an existing or former municipal ordinance 9605
or law of this state, any other state, or the United States that 9606
is substantially equivalent to any of the offenses listed in 9607

divisions (A)(3)(a) to (d) of this section. 9608

(4) "Employee" means a person employed by a community-based 9609
long-term care agency in a full-time, part-time, or temporary 9610
position that involves providing direct care to an individual and 9611
a person who works in such a position due to being referred to a 9612
community-based long-term care agency by an employment service. 9613
"Employee" does not include a person who provides direct care to 9614
an individual as a volunteer without receiving or expecting to 9615
receive any form of remuneration other than reimbursement for 9616
actual expenses. 9617

(B) No community-based long-term care agency shall employ an 9618
applicant or continue to employ an employee in a position that 9619
involves providing direct care to an individual if any of the 9620
following apply: 9621

(1) A review of the databases listed in division (D) of this 9622
section reveals any of the following: 9623

(a) That the applicant or employee is included in one or more 9624
of the databases listed in divisions (D)(1) to (5) of this 9625
section; 9626

(b) That there is in the state nurse aide registry 9627
established under section 3721.32 of the Revised Code a statement 9628
detailing findings by the director of health that the applicant or 9629
employee neglected or abused a long-term care facility or 9630
residential care facility resident or misappropriated property of 9631
such a resident; 9632

(c) That the applicant or employee is included in one or more 9633
of the databases, if any, specified in rules adopted under this 9634
section and the rules prohibit the agency from employing an 9635
applicant or continuing to employ an employee included in such a 9636
database in a position that involves providing direct care to an 9637
individual. 9638

(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. 9639
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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. 9646
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(C) Except as provided by division (F) of this section, the chief administrator of a community-based long-term care agency shall inform each applicant of both of the following at the time of the applicant's initial application for employment or referral to the agency by an employment service for a position that involves providing direct care to an individual: 9651
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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 agency is prohibited by division (B)(1) of this section from employing the applicant in the position; 9657
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(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. 9661
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(D) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a community-based long-term care agency shall conduct a database review of the applicant in accordance with 9666
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rules adopted under this section. If rules adopted under this 9670
section so require, the chief administrator of a community-based 9671
long-term care agency shall conduct a database review of an 9672
employee in accordance with the rules as a condition of continuing 9673
to employ the employee in a position that involves providing 9674
direct care to an individual. However, a chief administrator is 9675
not required to conduct a database review of an applicant or 9676
employee if division (F) of this section applies. A database 9677
review shall determine whether the applicant or employee is 9678
included in any of the following: 9679

(1) The excluded parties list system maintained by the United 9680
States general services administration pursuant to subpart 9.4 of 9681
the federal acquisition regulation; 9682

(2) The list of excluded individuals and entities maintained 9683
by the office of inspector general in the United States department 9684
of health and human services pursuant to section 1128 of the 9685
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 9686
amended, and section 1156 of the "Social Security Act," 96 Stat. 9687
388 (1982), 42 U.S.C. 1320c-5, as amended; 9688

(3) The registry of MR/DD employees established under section 9689
5123.52 of the Revised Code; 9690

(4) The internet-based sex offender and child-victim offender 9691
database established under division (A)(11) of section 2950.13 of 9692
the Revised Code; 9693

(5) The internet-based database of inmates established under 9694
section 5120.66 of the Revised Code; 9695

(6) The state nurse aide registry established under section 9696
3721.32 of the Revised Code; 9697

(7) Any other database, if any, specified in rules adopted 9698
under this section. 9699

(E)(1) Except as provided in division (I) of this section As 9700
a condition of employing any applicant in a position that involves 9701
providing direct care to an individual, the chief administrator of 9702
a community-based long-term care agency shall request that the 9703
superintendent of the bureau of criminal identification and 9704
investigation conduct a criminal records check ~~with respect to~~ 9705
~~each~~ of the applicant. If rules adopted under this section so 9706
require, the chief administrator of a community-based long-term 9707
care agency shall request that the superintendent conduct a 9708
criminal records check of an employee at times specified in the 9709
rules as a condition of continuing to employ the employee in a 9710
position that involves providing direct care to an individual. 9711
However, the chief administrator is not required to request the 9712
criminal records check of the applicant or employee if division 9713
(F) of this section applies or the agency is prohibited by 9714
division (B)(1) of this section from employing the applicant or 9715
continuing to employ the employee in a position that involves 9716
providing direct care to an individual. If an applicant or 9717
employee for whom a criminal records check request is required 9718
under by this division section does not present proof of having 9719
been a resident of this state for the five-year period immediately 9720
prior to the date the criminal records check is requested or 9721
provide evidence that within that five-year period the 9722
superintendent has requested information about the applicant or 9723
employee from the federal bureau of investigation in a criminal 9724
records check, the chief administrator shall request that the 9725
superintendent obtain information from the federal bureau of 9726
investigation as part of the criminal records check ~~of the~~ 9727
~~applicant~~. Even if an applicant or employee for whom a criminal 9728
records check request is required under by this division section 9729
presents proof of having been a resident of this state for the 9730
five-year period, the chief administrator may request that the 9731
superintendent include information from the federal bureau of 9732

investigation in the criminal records check. 9733

~~(2) A person required by division (B)(1) of this section to~~ 9734
~~request a criminal records check~~ The chief administrator shall do 9735
~~both~~ all of the following: 9736

(a) Provide to each applicant and employee for whom a 9737
criminal records check request is required ~~under that division~~ by 9738
this section a copy of the form prescribed pursuant to division 9739
(C)(1) of section 109.572 of the Revised Code and a standard 9740
~~fingerprint~~ impression sheet prescribed pursuant to division 9741
(C)(2) of that section, ~~and obtain;~~ 9742

(b) Obtain the completed form and standard impression sheet 9743
from the applicant or employee; 9744

~~(b)(c)~~ Forward the completed form and standard impression 9745
sheet to the superintendent ~~of the bureau of criminal~~ 9746
~~identification and investigation.~~ 9747

~~(3) An applicant provided the form and fingerprint impression~~ 9748
~~sheet under division (B)(2)(a) of this section who fails to~~ 9749
~~complete the form or provide fingerprint impressions shall not be~~ 9750
~~employed in any position for which a criminal records check is~~ 9751
~~required by this section.~~ 9752

~~(C)(1) Except as provided in rules adopted by the department~~ 9753
~~of aging in accordance with division (F) of this section and~~ 9754
~~subject to division (C)(2) of this section, no community based~~ 9755
~~long term care agency shall employ a person in a position that~~ 9756
~~involves providing direct care to an individual if the person has~~ 9757
~~been convicted of or pleaded guilty to any of the following:~~ 9758

~~(a) A violation of section 2903.01, 2903.02, 2903.03,~~ 9759
~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,~~ 9760
~~2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05,~~ 9761
~~2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31,~~ 9762
~~2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11,~~ 9763

~~2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 9764
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 9765
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 9766
2925.22, 2925.23, or 3716.11 of the Revised Code. 9767~~

~~(b) A violation of an existing or former law of this state, 9768
any other state, or the United States that is substantially 9769
equivalent to any of the offenses listed in division (C)(1)(a) of 9770
this section. 9771~~

~~(2)(a) A community-based long-term care agency shall pay to 9772
the bureau of criminal identification and investigation the fee 9773
prescribed pursuant to division (C)(3) of section 109.572 of the 9774
Revised Code for each criminal records check the agency requests 9775
under this section. An agency may charge an applicant a fee not 9776
exceeding the amount the agency pays to the bureau under this 9777
section if both of the following apply: 9778~~

~~(a) The agency notifies the applicant at the time of initial 9779
application for employment of the amount of the fee and that, 9780
unless the fee is paid, the applicant will not be considered for 9781
employment. 9782~~

~~(b) The medicaid program established under Chapter 5111. of 9783
the Revised Code does not reimburse the agency for the fee it pays 9784
to the bureau under this section. 9785~~

~~(F) Divisions (C) to (E) of this section do not apply with 9786
regard to an applicant or employee if the applicant or employee is 9787
referred to a community-based long-term agency by an employment 9788
service that supplies full-time, part-time, or temporary staff for 9789
positions that involve providing direct care to an individual and 9790
both of the following apply: 9791~~

~~(1) The chief administrator of the agency receives from the 9792
employment service confirmation that a review of the databases 9793
listed in division (D) of this section was conducted of the 9794~~

applicant or employee. 9795

(2) The chief administrator of the agency receives from the 9796
employment service, applicant, or employee a report of the results 9797
of a criminal records check of the applicant or employee that has 9798
been conducted by the superintendent within the one-year period 9799
immediately preceding the following: 9800

(a) In the case of an applicant, the date of the applicant's 9801
referral by the employment service to the agency; 9802

(b) In the case of an employee, the date by which the agency 9803
would otherwise have to request a criminal records check of the 9804
employee under division (E) of this section. 9805

(G)(1) A community-based long-term care agency may employ 9806
conditionally an applicant for whom a criminal records check 9807
request is required ~~under division (B) of~~ by this section prior to 9808
obtaining the results of a ~~the~~ criminal records check ~~regarding~~ 9809
the individual, provided that if the agency is not prohibited by 9810
division (B)(1) of this section from employing the applicant in a 9811
position that involves providing direct care to an individual and 9812
either of the following applies: 9813

(a) The chief administrator of the agency ~~shall request a~~ 9814
requests the criminal records check ~~regarding the individual~~ in 9815
accordance with division ~~(B)(1)~~(E) of this section not later than 9816
five business days after the ~~individual~~ applicant begins 9817
conditional employment. 9818

(b) The applicant is referred to the agency by an employment 9819
service, the employment service or the applicant provides the 9820
chief administrator of the agency a letter that is on the 9821
letterhead of the employment service, the letter is dated and 9822
signed by a supervisor or another designated official of the 9823
employment service, and the letter states all of the following: 9824

(i) That the employment service has requested the 9825

superintendent to conduct a criminal records check regarding the 9826
applicant; 9827

(ii) That the requested criminal records check is to include 9828
a determination of whether the applicant has been convicted of, 9829
pleaded guilty to, or been found eligible for intervention in lieu 9830
of conviction for a disqualifying offense; 9831

(iii) That the employment service has not received the 9832
results of the criminal records check as of the date set forth on 9833
the letter; 9834

(iv) That the employment service promptly will send a copy of 9835
the results of the criminal records check to the chief 9836
administrator of the agency when the employment service receives 9837
the results. In the circumstances described in division (I)(2) of 9838
this section, a community based long term care agency may employ 9839
conditionally an applicant who has been referred to the agency by 9840
an employment service that supplies full time, part time, or 9841
temporary staff for positions involving the direct care of 9842
individuals and for whom, pursuant to that division, a criminal 9843
records check is not required under division (B) of this section. 9844

(b)(2) If a community-based long-term care agency employs an 9845
applicant conditionally pursuant to division (G)(1)(b) of this 9846
section, the employment service, on its receipt of the results of 9847
the criminal records check, promptly shall send a copy of the 9848
results to the chief administrator of the agency. 9849

(3) A community-based long-term care agency that employs an 9850
individual applicant conditionally under authority of pursuant to 9851
division (C)(2)(a)(G)(1)(a) or (b) of this section shall terminate 9852
the individual's applicant's employment if the results of the 9853
criminal records check request under division (B) of this section 9854
or described in division (I)(2) of this section, other than the 9855
results of any request for information from the federal bureau of 9856

investigation, are not obtained within the period ending sixty 9857
days after the date the request for the criminal records check is 9858
made. Regardless of when the results of the criminal records check 9859
are obtained, if the results indicate that the ~~individual~~ 9860
applicant has been convicted of ~~or~~, pleaded guilty to ~~any of the~~ 9861
~~offenses listed or described in division (C)(1) of this section,~~ 9862
or been found eligible for intervention in lieu of conviction for 9863
a disqualifying offense, the agency shall terminate the 9864
~~individual's~~ applicant's employment unless circumstances specified 9865
in rules adopted under this section that permit the agency to 9866
employ the applicant exist and the agency chooses to employ the 9867
~~individual pursuant to division (F) of this section~~ applicant. 9868
Termination of employment under this division shall be considered 9869
just cause for discharge for purposes of division (D)(2) of 9870
section 4141.29 of the Revised Code if the ~~individual~~ applicant 9871
makes any attempt to deceive the agency about the ~~individual's~~ 9872
applicant's criminal record. 9873

~~(D)(1) Each community based long term care agency shall pay~~ 9874
~~to the bureau of criminal identification and investigation the fee~~ 9875
~~prescribed pursuant to division (C)(3) of section 109.572 of the~~ 9876
~~Revised Code for each criminal records check conducted pursuant to~~ 9877
~~a request made under division (B) of this section.~~ 9878

~~(2) A community based long term care agency may charge an~~ 9879
~~applicant a fee not exceeding the amount the agency pays under~~ 9880
~~division (D)(1) of this section. An agency may collect a fee only~~ 9881
~~if both of the following apply:~~ 9882

~~(a) The agency notifies the person at the time of initial~~ 9883
~~application for employment of the amount of the fee and that,~~ 9884
~~unless the fee is paid, the person will not be considered for~~ 9885
~~employment;~~ 9886

~~(b) The medicaid program established under Chapter 5111. of~~ 9887
~~the Revised Code does not reimburse the agency the fee it pays~~ 9888

~~under division (D)(1) of this section.~~ 9889

~~(E)~~(H) The report of any criminal records check conducted 9890
pursuant to a request made under this section is not a public 9891
record for the purposes of section 149.43 of the Revised Code and 9892
shall not be made available to any person other than the 9893
following: 9894

(1) The ~~individual~~ applicant or employee who is the subject 9895
of the criminal records check or the ~~individual's~~ applicant's or 9896
employee's representative; 9897

(2) The chief administrator of the community-based long-term 9898
care agency requesting the criminal records check or the 9899
administrator's representative; 9900

(3) The administrator of any other facility, agency, or 9901
program that provides direct care to individuals that is owned or 9902
operated by the same entity that owns or operates the 9903
community-based long-term care agency that requested the criminal 9904
records check; 9905

(4) The employment service that requested the criminal 9906
records check; 9907

(5) The director of aging or a person authorized by the 9908
director to monitor a community-based long-term care agency's 9909
compliance with this section; 9910

~~(5)~~(6) A court, hearing officer, or other necessary 9911
individual involved in a case dealing with ~~a~~ any of the following: 9912

(a) A denial of employment of the applicant or ~~dealing with~~ 9913
~~employment~~ employee; 9914

(b) Employment or unemployment benefits of the applicant or 9915
employee; 9916

~~(6) Any person to whom the report is provided pursuant to,~~ 9917
~~and in accordance with, division (I)(1) or (2) of this section~~ (c) 9918

A civil or criminal action regarding the medicaid program or a 9919
program the department of aging administers. 9920

~~(F) The department of aging shall adopt rules in accordance~~ 9921
~~with Chapter 119. of the Revised Code to implement this section.~~ 9922
~~The rules shall specify circumstances under which a~~ 9923
~~community based long term care agency may employ a person who has~~ 9924
~~been convicted of or pleaded guilty to an offense listed or~~ 9925
~~described in division (C)(1) of this section but meets personal~~ 9926
~~character standards set by the department.~~ 9927

~~(G) The chief administrator of a community based long term~~ 9928
~~care agency shall inform each person, at the time of initial~~ 9929
~~application for a position that involves providing direct care to~~ 9930
~~an individual, that the person is required to provide a set of~~ 9931
~~fingerprint impressions and that a criminal records check is~~ 9932
~~required to be conducted if the person comes under final~~ 9933
~~consideration for employment.~~ 9934

~~(H)~~(I) In a tort or other civil action for damages that is 9935
brought as the result of an injury, death, or loss to person or 9936
property caused by an individual applicant or employee who a 9937
community-based long-term care agency employs in a position that 9938
involves providing direct care to individuals, all of the 9939
following shall apply: 9940

(1) If the agency employed the individual applicant or 9941
employee in good faith and reasonable reliance on the report of a 9942
criminal records check requested under this section, the agency 9943
shall not be found negligent solely because of its reliance on the 9944
report, even if the information in the report is determined later 9945
to have been incomplete or inaccurate. 9946

(2) If the agency employed the individual applicant in good 9947
faith on a conditional basis pursuant to division ~~(C)(2)~~(G) of 9948
this section, the agency shall not be found negligent solely 9949

because it employed the ~~individual~~ applicant prior to receiving 9950
the report of a criminal records check requested under this 9951
section. 9952

(3) If the agency in good faith employed the ~~individual~~ 9953
applicant or employee according to the personal character 9954
standards established in rules adopted under ~~division (F) of this~~ 9955
section, the agency shall not be found negligent solely because 9956
the ~~individual prior to being employed had~~ applicant or employee 9957
has been convicted of ~~or~~ pleaded guilty to an offense listed or 9958
described in division (C)(1) of this section, or been found 9959
eligible for intervention in lieu of conviction for a 9960
disqualifying offense. 9961

~~(I)(1) The chief administrator of a community based long term~~ 9962
~~care agency is not required to request that the superintendent of~~ 9963
~~the bureau of criminal identification and investigation conduct a~~ 9964
~~criminal records check of an applicant if the applicant has been~~ 9965
~~referred to the agency by an employment service that supplies~~ 9966
~~full time, part time, or temporary staff for positions involving~~ 9967
~~the direct care of individuals and both of the following apply:~~ 9968

~~(a) The chief administrator receives from the employment~~ 9969
~~service or the applicant a report of the results of a criminal~~ 9970
~~records check regarding the applicant that has been conducted by~~ 9971
~~the superintendent within the one year period immediately~~ 9972
~~preceding the applicant's referral;~~ 9973

~~(b) The report of the criminal records check demonstrates~~ 9974
~~that the person has not been convicted of or pleaded guilty to an~~ 9975
~~offense listed or described in division (C)(1) of this section, or~~ 9976
~~the report demonstrates that the person has been convicted of or~~ 9977
~~pleaded guilty to one or more of those offenses, but the~~ 9978
~~community based long term care agency chooses to employ the~~ 9979
~~individual pursuant to division (F) of this section.~~ 9980

~~(2) The chief administrator of a community based long term 9981
care agency is not required to request that the superintendent of 9982
the bureau of criminal identification and investigation conduct a 9983
criminal records check of an applicant and may employ the 9984
applicant conditionally as described in this division, if the 9985
applicant has been referred to the agency by an employment service 9986
that supplies full time, part time, or temporary staff for 9987
positions involving the direct care of individuals and if the 9988
chief administrator receives from the employment service or the 9989
applicant a letter from the employment service that is on the 9990
letterhead of the employment service, dated, and signed by a 9991
supervisor or another designated official of the employment 9992
service and that states that the employment service has requested 9993
the superintendent to conduct a criminal records check regarding 9994
the applicant, that the requested criminal records check will 9995
include a determination of whether the applicant has been 9996
convicted of or pleaded guilty to any offense listed or described 9997
in division (C)(1) of this section, that, as of the date set forth 9998
on the letter, the employment service had not received the results 9999
of the criminal records check, and that, when the employment 10000
service receives the results of the criminal records check, it 10001
promptly will send a copy of the results to the community based 10002
long term care agency. If a community based long term care agency 10003
employs an applicant conditionally in accordance with this 10004
division, the employment service, upon its receipt of the results 10005
of the criminal records check, promptly shall send a copy of the 10006
results to the community based long term care agency, and division 10007
(C)(2)(b) of this section applies regarding the conditional 10008
employment. 10009~~

(J) The director of aging shall adopt rules in accordance 10010
with Chapter 119. of the Revised Code to implement this section. 10011

(1) The rules may do the following: 10012

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|--|--|
| <u>(a) Require employees to undergo database reviews and criminal records checks under this section;</u> | 10013 10014 |
| <u>(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;</u> | 10015 10016 10017 |
| <u>(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.</u> | 10018 10019 10020 |
| <u>(2) The rules shall specify all of the following:</u> | 10021 |
| <u>(a) The procedures for conducting database reviews under this section;</u> | 10022 10023 |
| <u>(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;</u> | 10024 10025 10026 10027 |
| <u>(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a community-based long-term care agency is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;</u> | 10028 10029 10030 10031 10032 |
| <u>(d) Circumstances under which a community-based long-term care agency may employ an applicant or employee who 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 but meets personal character standards.</u> | 10033 10034 10035 10036 10037 10038 |
| Sec. 173.40. (A) As used in sections 173.40 to 173.402 of the Revised Code: | 10039 10040 |
| "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. | 10041 10042 |

"PASSPORT program" means the program created under this section. 10043
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"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the PASSPORT program. 10045
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"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code. 10048
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(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. 10051
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(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: 10059
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(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. 10062
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(b) The medicaid-funded component shall be operated as a separate medicaid waiver component. 10066
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(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. 10068
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(d) The director of job and family services shall adopt rules 10073
under section 5111.85 of the Revised Code and the director of 10074
aging shall adopt rules in accordance with Chapter 119. of the 10075
Revised Code to implement the medicaid-funded component. 10076

(2) If the unified long-term services and support medicaid 10077
waiver component is created, the departments of aging and job and 10078
family services shall work together to determine whether the 10079
medicaid-funded component of the PASSPORT program should continue 10080
to operate as a separate medicaid waiver component or be 10081
terminated. If the departments determine that the medicaid-funded 10082
component of the PASSPORT program should be terminated, the 10083
medicaid-funded component shall cease to exist on a date the 10084
departments shall specify. 10085

(D)(1) The department of aging shall administer the 10086
state-funded component of the PASSPORT program. The state-funded 10087
component shall not be administered as part of the medicaid 10088
program. 10089

(2) For an individual to be eligible for the state-funded 10090
component, the individual must meet one of the following 10091
requirements and meet the additional eligibility requirements 10092
applicable to the individual established in rules adopted under 10093
division (D)(4) of this section: 10094

(a) The individual must have been enrolled in the 10095
state-funded component on September 1, 1991, (as the state-funded 10096
component was authorized by uncodified law in effect at that time) 10097
and have had one or more applications for enrollment in the 10098
medicaid-funded component (or, if the medicaid-funded component is 10099
terminated under division (C)(2) of this section, the unified 10100
long-term services and support medicaid waiver component) denied. 10101

(b) The individual must have had the individual's enrollment 10102
in the medicaid-funded component (or, if the medicaid-funded 10103

component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) terminated and the individual must still need the home and community-based services provided under the PASSPORT program to protect the individual's health and safety.

(c) The individual must have an application for the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component).

(3) An individual who is eligible for the state-funded component because the individual meets the requirement of division (D)(2)(c) of this section may participate in the component on that basis for not more than ~~three months~~ ninety days.

(4) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (D)(2)(a), (b), and (c) of this section.

Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the Revised Code:

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| (1) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging. | 10135 10136 10137 |
| (2) "Department of aging-administered medicaid waiver component" means each of the following: | 10138 10139 |
| (a) The medicaid-funded component of the PASSPORT program created under section 173.40 of the Revised Code; | 10140 10141 |
| (b) The choices program created under section 173.403 of the Revised Code; | 10142 10143 |
| (c) The medicaid-funded component of the assisted living program created under section 5111.89 of the Revised Code; | 10144 10145 |
| (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. | 10146 10147 10148 10149 10150 |
| (3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following: | 10151 10152 10153 |
| (a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component; | 10154 10155 |
| (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: | 10156 10157 10158 10159 |
| (i) Home health services; | 10160 |
| (ii) Private duty nursing services; | 10161 |
| (iii) Durable medical equipment; | 10162 |
| (iv) Services of a clinical nurse specialist; | 10163 |

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| (v) Services of a certified nurse practitioner. | 10164 |
| (c) Services available to a participant of the PACE program. | 10165 |
| (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 program established pursuant to this section. | 10166 10167 10168 10169 |
| (5) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code. | 10170 10171 |
| (6) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. | 10172 10173 |
| (7) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code. | 10174 10175 10176 |
| (8) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program. | 10177 10178 10179 |
| (9) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract. | 10180 10181 10182 10183 |
| (10) "Representative" means a person acting on behalf of an individual specified in division (G) of this section. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual. | 10184 10185 10186 10187 10188 |
| (B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about | 10189 10190 10191 10192 10193 |

factors to consider in making long-term care decisions. The 10194
long-term care consultations provided under the program may be 10195
provided at any appropriate time, as permitted or required under 10196
this section and the rules adopted under it, including either 10197
prior to or after the individual who is the subject of a 10198
consultation has been admitted to a nursing facility or granted 10199
assistance in receiving home and community-based services covered 10200
by medicaid components the department of aging administers. 10201

(C) The long-term care consultation program shall be 10202
administered by the department of aging, except that the 10203
department may have the program administered on a regional basis 10204
by one or more program administrators. The department and each 10205
program administrator shall administer the program in such a 10206
manner that all of the following are included: 10207

(1) Coordination and collaboration with respect to all 10208
available funding sources for long-term care services; 10209

(2) Assessments of individuals regarding their long-term care 10210
service needs; 10211

(3) Assessments of individuals regarding their on-going 10212
eligibility for long-term care services; 10213

(4) Procedures for assisting individuals in obtaining access 10214
to, and coordination of, health and supportive services, including 10215
department of aging-administered medicaid waiver components; 10216

(5) Priorities for using available resources efficiently and 10217
effectively. 10218

(D) The program's long-term care consultations shall be 10219
provided by individuals certified by the department under section 10220
173.422 of the Revised Code. 10221

(E) The information provided through a long-term care 10222
consultation shall be appropriate to the individual's needs and 10223

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| situation and shall address all of the following: | 10224 |
| (1) The availability of any long-term care options open to the individual; | 10225 10226 |
| (2) Sources and methods of both public and private payment for long-term care services; | 10227 10228 |
| (3) Factors to consider when choosing among the available programs, services, and benefits; | 10229 10230 |
| (4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community. | 10231 10232 10233 |
| (F) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5111.202, 5119.061, and 5123.021 of the Revised Code and may be provided concurrently with the assessment required under section 5111.204 of the Revised Code. | 10234 10235 10236 10237 10238 10239 |
| (G)(1) Unless an exemption specified in division (I) of this section is applicable, each of the following shall be provided with a long-term care consultation: | 10240 10241 10242 |
| (a) An individual who applies or indicates an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for the individual's care in a nursing facility; | 10243 10244 10245 10246 |
| (b) An individual who requests a long-term care consultation; | 10247 |
| (c) An individual identified by the department or a program administrator as being likely to benefit from a long-term care consultation. | 10248 10249 10250 |
| (2) In addition to the individuals specified in division (G)(1) of this section, a long-term care consultation may be provided to a nursing facility resident regardless of the source | 10251 10252 10253 |

of payment being used for the resident's care in the nursing 10254
facility. 10255

(H)(1) Except as provided in division (H)(2) or (3) of this 10256
section, a long-term care consultation provided pursuant to 10257
division (G) of this section shall be provided as follows: 10258

(a) If the individual for whom the consultation is being 10259
provided has applied for medicaid and the consultation is being 10260
provided concurrently with the assessment required under section 10261
5111.204 of the Revised Code, the consultation shall be completed 10262
in accordance with the applicable time frames specified in that 10263
section for providing a level of care determination based on the 10264
assessment. 10265

(b) In all other cases, the consultation shall be provided 10266
not later than five calendar days after the department or program 10267
administrator receives notice of the reason for which the 10268
consultation is to be provided pursuant to division (G) of this 10269
section. 10270

(2) An individual or the individual's representative may 10271
request that a long-term care consultation be provided on a date 10272
that is later than the date required under division (H)(1)(a) or 10273
(b) of this section. 10274

(3) If a long-term care consultation cannot be completed 10275
within the number of days required by division (H)(1) or (2) of 10276
this section, the department or program administrator may do any 10277
of the following: 10278

(a) In the case of an individual specified in division (G)(1) 10279
of this section, exempt the individual from the consultation 10280
pursuant to rules that may be adopted under division (L) of this 10281
section; 10282

(b) In the case of an applicant for admission to a nursing 10283
facility, provide the consultation after the individual is 10284

admitted to the nursing facility; 10285

(c) In the case of a resident of a nursing facility, provide 10286
the consultation as soon as practicable. 10287

(I) An individual is not required to be provided a long-term 10288
care consultation under division (G)(1) of this section if any of 10289
the following apply: 10290

(1) The department or program administrator has attempted to 10291
provide the consultation, but the individual or the individual's 10292
representative refuses to cooperate; 10293

(2) The individual is to receive care in a nursing facility 10294
under a contract for continuing care as defined in section 173.13 10295
of the Revised Code; 10296

(3) The individual has a contractual right to admission to a 10297
nursing facility operated as part of a system of continuing care 10298
in conjunction with one or more facilities that provide a less 10299
intensive level of services, including a residential care facility 10300
licensed under Chapter 3721. of the Revised Code, an adult care a 10301
residential facility licensed under ~~sections 5119.70 to 5119.88~~ 10302
section 5119.22 of the Revised Code that provides accommodations, 10303
supervision, and personal care services for three to sixteen 10304
unrelated adults, or an independent living arrangement; 10305

(4) The individual is to receive continual care in a home for 10306
the aged exempt from taxation under section 5701.13 of the Revised 10307
Code; 10308

(5) The individual is seeking admission to a facility that is 10309
not a nursing facility with a provider agreement under section 10310
5111.22, 5111.671, or 5111.672 of the Revised Code; 10311

(6) The individual is exempted from the long-term care 10312
consultation requirement by the department or the program 10313
administrator pursuant to rules that may be adopted under division 10314

(L) of this section. 10315

(J) As part of the long-term care consultation program, the 10316
department or program administrator shall assist an individual or 10317
individual's representative in accessing all sources of care and 10318
services that are appropriate for the individual and for which the 10319
individual is eligible, including all available home and 10320
community-based services covered by medicaid components the 10321
department of aging administers. The assistance shall include 10322
providing for the conduct of assessments or other evaluations and 10323
the development of individualized plans of care or services under 10324
section 173.424 of the Revised Code. 10325

(K) No nursing facility for which an operator has a provider 10326
agreement under section 5111.22, 5111.671, or 5111.672 of the 10327
Revised Code shall admit any individual as a resident, unless the 10328
nursing facility has received evidence that a long-term care 10329
consultation has been completed for the individual or division (I) 10330
of this section is applicable to the individual. 10331

(L) The director of aging may adopt any rules the director 10332
considers necessary for the implementation and administration of 10333
this section. The rules shall be adopted in accordance with 10334
Chapter 119. of the Revised Code and may specify any or all of the 10335
following: 10336

(1) Procedures for providing long-term care consultations 10337
pursuant to this section; 10338

(2) Information to be provided through long-term care 10339
consultations regarding long-term care services that are 10340
available; 10341

(3) Criteria and procedures to be used to identify and 10342
recommend appropriate service options for an individual receiving 10343
a long-term care consultation; 10344

(4) Criteria for exempting individuals from the long-term 10345

care consultation requirement; 10346

(5) Circumstances under which it may be appropriate to 10347
provide an individual's long-term care consultation after the 10348
individual's admission to a nursing facility rather than before 10349
admission; 10350

(6) Criteria for identifying nursing facility residents who 10351
would benefit from the provision of a long-term care consultation; 10352

(7) A description of the types of information from a nursing 10353
facility that is needed under the long-term care consultation 10354
program to assist a resident with relocation from the facility; 10355

(8) Standards to prevent conflicts of interest relative to 10356
the referrals made by a person who performs a long-term care 10357
consultation, including standards that prohibit the person from 10358
being employed by a provider of long-term care services; 10359

(9) Procedures for providing notice and an opportunity for a 10360
hearing under division (N) of this section. 10361

(M) To assist the department and each program administrator 10362
with identifying individuals who are likely to benefit from a 10363
long-term care consultation, the department and program 10364
administrator may ask to be given access to nursing facility 10365
resident assessment data collected through the use of the resident 10366
assessment instrument specified in rules adopted under section 10367
5111.02 of the Revised Code for purposes of the medicaid program. 10368
Except when prohibited by state or federal law, the department of 10369
health, department of job and family services, or nursing facility 10370
holding the data shall grant access to the data on receipt of the 10371
request from the department of aging or program administrator. 10372

(N)(1) The director of aging, after providing notice and an 10373
opportunity for a hearing, may fine a nursing facility an amount 10374
determined by rules the director shall adopt in accordance with 10375
Chapter 119. of the Revised Code for any of the following reasons: 10376

(a) The nursing facility admits an individual, without 10377
evidence that a long-term care consultation has been provided, as 10378
required by this section; 10379

(b) The nursing facility denies a person attempting to 10380
provide a long-term care consultation access to the facility or a 10381
resident of the facility; 10382

(c) The nursing facility denies the department of aging or 10383
program administrator access to the facility or a resident of the 10384
facility, as the department or administrator considers necessary 10385
to administer the program. 10386

(2) In accordance with section 5111.62 of the Revised Code, 10387
all fines collected under division (N)(1) of this section shall be 10388
deposited into the state treasury to the credit of the residents 10389
protection fund. 10390

Sec. 173.45. As used in this section and in sections 173.46 10391
to 173.49 of the Revised Code: 10392

(A) "~~Adult care Residential~~ facility" ~~has the same meaning as~~ 10393
~~in~~ means a residential facility licensed under section ~~5119.70~~ 10394
5119.22 of the Revised Code that provides accommodations, 10395
supervision, and personal care services for three to sixteen 10396
unrelated adults. 10397

(B) "Community-based long-term care services" has the same 10398
meaning as in section 173.14 of the Revised Code. 10399

(C) "Long-term care facility" means a nursing home or 10400
residential care facility. 10401

(D) "Nursing home" and "residential care facility" have the 10402
same meanings as in section 3721.01 of the Revised Code. 10403

(E) "Nursing facility" has the same meaning as in section 10404
5111.20 of the Revised Code. 10405

Sec. 173.46. (A) The department of aging shall develop and 10406
publish a guide to long-term care facilities for use by 10407
individuals considering long-term care facility admission and 10408
their families, friends, and advisors. The guide, which shall be 10409
titled the Ohio long-term care consumer guide, may be published in 10410
printed form or in electronic form for distribution over the 10411
internet. The guide may be developed as a continuation or 10412
modification of the guide published by the department prior to 10413
September 29, 2005, under rules adopted under section 173.02 of 10414
the Revised Code. 10415

(B) The Ohio long-term care consumer guide shall include 10416
information on each long-term care facility in this state. For 10417
each facility, the guide shall include the following information, 10418
as applicable to the facility: 10419

(1) Information regarding the facility's compliance with 10420
state statutes and rules and federal statutes and regulations; 10421

(2) Information generated by the centers for medicare and 10422
medicaid services of the United States department of health and 10423
human services from the quality measures developed as part of its 10424
nursing home quality initiative; 10425

(3) Results of the customer satisfaction surveys conducted 10426
under section 173.47 of the Revised Code; 10427

(4) Any other information the department specifies in rules 10428
adopted under section 173.49 of the Revised Code. 10429

(C) The Ohio long-term care consumer guide may include 10430
information on ~~adult care~~ residential facilities and providers of 10431
community-based long-term care services. The department may adopt 10432
rules under section 173.49 of the Revised Code to specify the 10433
information to be included in the guide pursuant to this division. 10434

Sec. 191.01. As used in this chapter: 10435

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| <u>(A) "Business associate," "covered entity," "health plan,"</u> | 10436 |
| <u>"individually identifiable health information," and "protected</u> | 10437 |
| <u>health information" have the same meanings as in 45 C.F.R.</u> | 10438 |
| <u>160.103.</u> | 10439 |
| <u>(B) "Executive director of the office of health</u> | 10440 |
| <u>transformation" or "executive director" means the executive</u> | 10441 |
| <u>director of the office of health transformation or the chief</u> | 10442 |
| <u>administrative officer of a successor governmental entity</u> | 10443 |
| <u>responsible for health system oversight in this state.</u> | 10444 |
| <u>(C) "Government program providing public benefits" means any</u> | 10445 |
| <u>program administered by a state agency that has been identified,</u> | 10446 |
| <u>pursuant to section 191.02 of the Revised Code, by the executive</u> | 10447 |
| <u>director of the office of health transformation in consultation</u> | 10448 |
| <u>with the individuals specified in that section.</u> | 10449 |
| <u>(D) "Office of health transformation" means the office of</u> | 10450 |
| <u>health transformation created by executive order 2011-02K.</u> | 10451 |
| <u>(E) "Operating protocol" means a protocol adopted by the</u> | 10452 |
| <u>executive director of the office of health transformation or the</u> | 10453 |
| <u>executive director's designee under division (D) of section 191.06</u> | 10454 |
| <u>of the Revised Code.</u> | 10455 |
| <u>(F) "Participating agency" means a state agency that</u> | 10456 |
| <u>participates in a health transformation initiative as specified in</u> | 10457 |
| <u>the one or more operating protocols adopted for the initiative</u> | 10458 |
| <u>under division (D) of section 191.06 of the Revised Code.</u> | 10459 |
| <u>(G) "Personally identifiable information" means information</u> | 10460 |
| <u>that meets both of the following criteria:</u> | 10461 |
| <u>(1) It identifies an individual or there is a reasonable</u> | 10462 |
| <u>basis to believe that it may be used to identify an individual;</u> | 10463 |
| <u>(2) It relates to an individual's eligibility for,</u> | 10464 |
| <u>application for, or receipt of public benefits from a government</u> | 10465 |

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| <u>program providing public benefits.</u> | 10466 |
| <u>(H) "State agency" means each of the following:</u> | 10467 |
| <u>(1) The department of aging;</u> | 10468 |
| <u>(2) The department of alcohol and drug addiction services;</u> | 10469 |
| <u>(3) The department of development;</u> | 10470 |
| <u>(4) The department of developmental disabilities;</u> | 10471 |
| <u>(5) The department of education;</u> | 10472 |
| <u>(6) The department of health;</u> | 10473 |
| <u>(7) The department of insurance;</u> | 10474 |
| <u>(8) The department of job and family services;</u> | 10475 |
| <u>(9) The department of mental health;</u> | 10476 |
| <u>(10) The department of rehabilitation and correction;</u> | 10477 |
| <u>(11) The department of taxation;</u> | 10478 |
| <u>(12) The department of veterans services;</u> | 10479 |
| <u>(13) The department of youth services.</u> | 10480 |
| <u>(I) "Unsecured" has the same meaning as in 16 C.F.R. 318.2.</u> | 10481 |
| <u>Sec. 191.02. The executive director of the office of health</u> | 10482 |
| <u>transformation, in consultation with all of the following</u> | 10483 |
| <u>individuals, shall identify each government program administered</u> | 10484 |
| <u>by a state agency that is to be considered a government program</u> | 10485 |
| <u>providing public benefits for purposes of section 191.04 of the</u> | 10486 |
| <u>Revised Code:</u> | 10487 |
| <u>(A) The director of aging;</u> | 10488 |
| <u>(B) The director of alcohol and drug addiction services;</u> | 10489 |
| <u>(C) The director of development;</u> | 10490 |
| <u>(D) The director of developmental disabilities;</u> | 10491 |

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| <u>(E) The director of health;</u> | 10492 |
| <u>(F) The director job and family services;</u> | 10493 |
| <u>(G) The director of mental health;</u> | 10494 |
| <u>(H) The director of rehabilitation and correction;</u> | 10495 |
| <u>(I) The director of veterans services;</u> | 10496 |
| <u>(J) The director of youth services;</u> | 10497 |
| <u>(K) The administrator of the rehabilitation services</u> <u>commission;</u> | 10498 10499 |
| <u>(L) The administrator of workers' compensation;</u> | 10500 |
| <u>(M) The superintendent of insurance;</u> | 10501 |
| <u>(N) The superintendent of public instruction;</u> | 10502 |
| <u>(O) The tax commissioner.</u> | 10503 |
| | |
| <u>Sec. 191.04. (A) In accordance with federal laws governing</u> | 10504 |
| <u>the confidentiality of individually identifiable health</u> | 10505 |
| <u>information, including the "Health Insurance Portability and</u> | 10506 |
| <u>Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021,</u> | 10507 |
| <u>42 U.S.C. 1320d et seq., as amended, and regulations promulgated</u> | 10508 |
| <u>by the United States department of health and human services to</u> | 10509 |
| <u>implement the act, a state agency may exchange protected health</u> | 10510 |
| <u>information with another state agency relating to eligibility for</u> | 10511 |
| <u>or enrollment in a health plan or relating to participation in a</u> | 10512 |
| <u>government program providing public benefits if the exchange of</u> | 10513 |
| <u>information is necessary for either or both of the following:</u> | 10514 |
| | |
| <u>(1) Operating a health plan;</u> | 10515 |
| | |
| <u>(2) Coordinating, or improving the administration or</u> | 10516 |
| <u>management of, the health care-related functions of at least one</u> | 10517 |
| <u>government program providing public benefits.</u> | 10518 |
| | |
| <u>(B) For fiscal year 2013 only, a state agency also may</u> | 10519 |

exchange personally identifiable information with another state 10520
agency for purposes related to and in support of a health 10521
transformation initiative identified by the executive director of 10522
the office of health transformation pursuant to division (C) of 10523
section 191.06 of the Revised Code. 10524

(C) With respect to a state agency that uses or discloses 10525
personally identifiable information, all of the following 10526
conditions apply: 10527

(1) The state agency shall use or disclose the information 10528
only as permitted or required by state and federal law. In 10529
addition, if the information is obtained during fiscal year 2013 10530
from an exchange of personally identifiable information permitted 10531
under division (B) of this section, the agency shall also use or 10532
disclose the information in accordance with all operating 10533
protocols that apply to the use or disclosure. 10534

(2) If the state agency is a state agency other than the 10535
department of job and family services and it uses or discloses 10536
protected health information relating to a medicaid recipient, the 10537
agency shall comply with all state and federal laws that apply to 10538
the department of job and family services when that department, as 10539
the state's single state agency to supervise the medicaid program 10540
as specified in section 5111.01 of the Revised Code, uses or 10541
discloses protected health information. 10542

(3) A state agency shall implement administrative, physical, 10543
and technical safeguards for the purpose of protecting the 10544
confidentiality, integrity, and availability of personally 10545
identifiable information the creation, receipt, maintenance, or 10546
transmittal of which is affected or governed by an operating 10547
protocol. 10548

(4) If a state agency discovers an unauthorized use or 10549
disclosure of unsecured protected health information or unsecured 10550

individually identifiable health information, the state agency 10551
shall, not later than seventy-two hours after the discovery, do 10552
all of the following: 10553

(a) Identify the individuals who are the subject of the 10554
protected health information or individually identifiable health 10555
information; 10556

(b) Report the discovery and the names of all individuals 10557
identified pursuant to division (C)(4)(a) of this section to all 10558
other state agencies and the executive director of the office of 10559
health transformation or the executive director's designee; 10560

(c) Mitigate, to the extent reasonably possible, any 10561
potential adverse effects of the unauthorized use or disclosure. 10562

(5) A state agency shall make available to the executive 10563
director of the office of health transformation or the executive 10564
director's designee, and to any other state or federal 10565
governmental entity required by law to have access on that 10566
entity's request, all internal practices, records, and 10567
documentation relating to personally identifiable information it 10568
receives, uses, or discloses that is affected or governed by an 10569
operating protocol. 10570

(6) On termination or expiration of an operating protocol and 10571
if feasible, a state agency shall return or destroy all personally 10572
identifiable information received directly from or received on 10573
behalf of another state agency. If the personally identifiable 10574
information is not returned or destroyed, the state agency 10575
maintaining the information shall extend the protections set forth 10576
in this section for as long as it is maintained. 10577

(7) If a state agency enters into a subcontract or, when 10578
required by 45 C.F.R. 164.502(e)(2), a business associate 10579
agreement, the subcontract or business associate agreement shall 10580
require the subcontractor or business associate to comply with the 10581

terms of this section as if the subcontractor or business 10582
associate were a state agency. 10583

Sec. 191.06. (A) The provisions of this section shall apply 10584
only for fiscal year 2013. 10585

(B) The executive director of the office of health 10586
transformation or the executive director's designee may facilitate 10587
the coordination of operations and exchange of information between 10588
state agencies. The purpose of the executive director's authority 10589
under this section is to support agency collaboration for health 10590
transformation purposes, including modernization of the medicaid 10591
program, streamlining of health and human services programs in 10592
this state, and improving the quality, continuity, and efficiency 10593
of health care and health care support systems in this state. 10594

(C) In furtherance of the authority of the executive director 10595
of the office of health transformation under division (B) of this 10596
section, the executive director or the executive director's 10597
designee shall identify each health transformation initiative in 10598
this state that involves the participation of two or more state 10599
agencies and that permits or requires an interagency agreement to 10600
be entered into for purposes of specifying each participating 10601
agency's role in coordinating, operating, or funding the 10602
initiative, or facilitating the exchange of data or other 10603
information for the initiative. The executive director shall 10604
publish a list of the identified health transformation initiatives 10605
on the internet web site maintained by the office of health 10606
transformation. 10607

(D) For each health transformation initiative that is 10608
identified under division (C) of this section, the executive 10609
director or the executive director's designee shall, in 10610
consultation with each participating agency, adopt one or more 10611
operating protocols. Notwithstanding any law enacted by the 10612

general assembly or rule adopted by a state agency, the provisions 10613
in a protocol shall supersede any provisions in an interagency 10614
agreement, including an interagency agreement entered into under 10615
section 5101.10 or 5111.91 of the Revised Code, that differ from 10616
the provisions of the protocol. 10617

(E)(1) An operating protocol adopted under division (D) of 10618
this section shall include both of the following: 10619

(a) All terms necessary to meet the requirements of "other 10620
arrangements" between a covered entity and a business associate 10621
that are referenced in 45 C.F.R. 164.314(a)(2)(ii); 10622

(b) If known, the date on which the protocol will terminate 10623
or expire. 10624

(2) In addition, a protocol may specify the extent to which 10625
each participating agency is responsible and accountable for 10626
completing the tasks necessary for successful completion of the 10627
initiative, including tasks relating to the following components 10628
of the initiative: 10629

(a) Workflow; 10630

(b) Funding; 10631

(c) Exchange of data or other information that is 10632
confidential pursuant to state or federal law. 10633

(F) An operating protocol adopted under division (D) of this 10634
section shall have the same force and effect as an interagency 10635
agreement or data sharing agreement, and each participating agency 10636
shall comply with it. 10637

(G) The director of job and family services shall determine 10638
whether a waiver of federal medicaid requirements or a medicaid 10639
state plan amendment is necessary to fulfill the requirements of 10640
this section. If the director determines a waiver or medicaid 10641
state plan amendment is necessary, the director shall apply to the 10642

United States secretary of health and human services for the 10643
waiver or amendment. 10644

Sec. 306.04. (A) Except as otherwise provided in division (B) 10645
of this section, employees of a county transit board or a board of 10646
county commissioners operating a transit system are employees of 10647
the county. If the system is operated by the board of county 10648
commissioners, the board shall appoint an executive director, who 10649
shall be in the unclassified service. 10650

(B) Any county transit board that established its own civil 10651
service organization and procedure prior to ~~the effective date of~~ 10652
~~this amendment~~ October 25, 1995, shall continue to operate under 10653
that organization. Appointments and promotions in that system 10654
shall be made, as far as practicable, by competitive examination. 10655

A board that established its own civil service organization 10656
prior to ~~the effective date of this amendment~~ October 25, 1995, 10657
shall establish by rule the seniority provisions relating to 10658
street railway and motor bus employees in effect at the time of 10659
the acquisition of the transit system by the county. The vacation, 10660
holiday, and sick leave privileges shall not be regulated by other 10661
provisions of law relating to public employees of the state or 10662
county, except that the transit board, its officers and employees, 10663
shall be subject to the public employees retirement system of the 10664
state and the transit board shall assume any pension obligations 10665
which have been assumed by any publicly owned transit system which 10666
the county may acquire. 10667

(C) A county transit board or board of county commissioners 10668
operating a transit system may: 10669

(1) Acquire in its name by gift, grant, purchase, or 10670
condemnation and hold and operate real estate and interests 10671
therein and personal property suitable for its purposes; 10672

(2) In its name purchase, acquire, construct, enlarge, 10673
improve, equip, repair, maintain, sell, exchange, lease as lessee 10674
or lessor, receive a right of use of, and manage, control, and 10675
operate, in or out of the county, a county transit system 10676
consisting of all real estate and interests therein, personal 10677
property, and a combination thereof, for or related to the 10678
movement of persons including but not limited to street railway, 10679
tramline, subways, rapid transits, monorails, and passenger bus 10680
systems but excluding therefrom trucks, the movement of property 10681
by truck, and facilities designed for use in the movement of 10682
property by truck for hire; 10683

(3) Issue, with the approval of the county commissioners when 10684
the issuance is made by the transit board, revenue bonds of the 10685
county as provided in division (B) of section 306.09 of the 10686
Revised Code, to secure funds to accomplish its purposes. The 10687
principal of and interest on such bonds, together with all other 10688
payments required to be made by the trust agreement or indenture 10689
securing such bonds, shall be paid solely from revenues or other 10690
income accruing to the board from facilities of the county transit 10691
system designated in said agreement or indenture. 10692

(4) Enter into contracts in the exercise of the rights, 10693
powers, and duties conferred upon it, and execute all instruments 10694
necessary in the conduct of its business; 10695

(5) Fix, alter, and charge rates and other charges for the 10696
use of its real estate and interests therein, personal property, 10697
and combinations thereof; 10698

(6) Employ such financial consultants, accountants, 10699
appraisers, consulting engineers, architects, construction 10700
experts, attorneys-at-law, managers and other supervisory 10701
personnel, and other officers, employees, and agents as it 10702
determines necessary to conduct its business, and fix their 10703
compensation and duties; 10704

(7) Pledge, hypothecate, or otherwise encumber its revenues 10705
and other income as security for its obligations and enter into 10706
trust agreements or indentures for the benefit of revenue 10707
bondholders; 10708

(8) Borrow money or accept or contract to accept advances, 10709
loans, gifts, grants, devises, or bequests from and enter into 10710
contracts or agreements with any federal, state, or other 10711
governmental or private source and hold and apply advances, loans, 10712
gifts, grants, devises, or bequests according to the terms thereof 10713
including provisions which are required by such federal, state, or 10714
other governmental or private source to protect the interest of 10715
employees affected by such advances, loans, gifts, grants, 10716
devises, or bequests. Such advances, loans, gifts, grants, or 10717
devises may be subject to any reasonable reservation and any gift, 10718
grant, or devise or real estate may be in fee simple or any lesser 10719
estate. Any advances or loans received from any federal, state, or 10720
other governmental or private source may be repaid in accordance 10721
with the terms of such advance or loan. 10722

(9) Conduct investigations and surveys into the needs of the 10723
public within or without the county for transportation services to 10724
provide for the movement of persons within, into, or from the area 10725
serviced or to be serviced by the county transit system; 10726

(10) Enter into lawful arrangements with the appropriate 10727
federal or state department or agency, county, township, municipal 10728
corporation, or other political subdivision or public agency for 10729
the planning and installation of any public facilities which are 10730
determined necessary in the conduct of its business; 10731

(11) Purchase fire, extended coverage, and liability 10732
insurance for the real estate and interests therein, personal 10733
property and any combination thereof, used by or in connection 10734
with the county transit system and insurance covering the board 10735
and the county transit system and its officers and employees for 10736

liability for damage or injury to persons or property; 10737

(12) Procure and pay all or any part of the cost of group 10738
hospitalization, surgical, major medical, or sickness and accident 10739
insurance, or a combination thereof, for the officers and 10740
employees of the county transit system and their immediate 10741
dependents, issued by an insurance company, duly authorized to do 10742
business in this state; 10743

(13) Sell, lease, release, or otherwise dispose of real 10744
estate or interests therein or personal property owned by it and 10745
grant such easements across its real estate and interests therein 10746
as will not interfere with its use by the county transit system; 10747

(14) Establish rules for the use and operation of the county 10748
transit system including the real estate or interests therein, 10749
personal property or a combination of the foregoing used by or in 10750
connection with such system; 10751

(15) Exercise the power of eminent domain to appropriate any 10752
real estate or interests therein, personal property, franchises, 10753
or any combination thereof, within or without the county, 10754
necessary or proper in the exercise of its powers provided in 10755
sections 306.01 to 306.13 of the Revised Code, as provided in 10756
sections 163.01 to 163.22 of the Revised Code, and subject to 10757
divisions (15)(a), (b), and (c) of this section, provided that a 10758
county transit board or a board of county commissioners operating 10759
a transit system shall not proceed to so appropriate real property 10760
outside its territorial boundaries, until it has served at the 10761
office of the county commissioners of the county in which it is 10762
proposed to appropriate real property, a notice describing the 10763
real property to be taken and the purpose for which it is proposed 10764
to be taken, and such county commissioners have entered on their 10765
journal within thirty days after such service a resolution 10766
approving such appropriation; 10767

(a) Nothing contained in this division authorizes a county transit board or a board of county commissioners to appropriate any land, rights, rights-of-way, franchises, or easements belonging to the state or to a municipal corporation without the consent of the state or of the municipal corporation, and no county transit board or board of county commissioners shall exercise the right of eminent domain to acquire any certificate of public convenience and necessity, or any part thereof, issued to a for-hire motor transportation company carrier by the public utilities commission of Ohio or by the ~~interstate commerce commission~~ federal motor carrier safety administration of the United States, or to take or disturb other real estate or interests therein, personal property, or any combination thereof belonging to any municipal corporation without the consent of the legislative authority of such municipal corporation, or take or disturb real estate or interests therein, personal property, or any combination thereof belonging to any other political subdivision, public corporation, public utility, or common carrier, which is necessary and convenient in the operation of such political subdivision, public corporation, public utility, or common carrier unless provision is made for the restoration, relocation, or duplication of that taken or upon the election of such political subdivision, public corporation, public utility, or common carrier for the payment of compensation, if any, at the sole cost of the county transit system.

(b) If any restoration or duplication proposed to be made under this division involves a relocation, the new location shall have at least comparable utilitarian value and effectiveness, and such relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

(c) If such restoration or duplication proposed to be made under this division involves a relocation, the county transit

board or board of county commissioners shall acquire no interest 10800
or right in or to the appropriated property or facility until the 10801
relocated property or facility is available for use and until 10802
marketable title thereto has been transferred to the political 10803
subdivision, public corporation, public utility, or common 10804
carrier. Nothing in this division shall require any board of 10805
county commissioners or county transit board operating a county 10806
transit system to so restore, relocate, or duplicate, if all of 10807
the real estate and interests therein, personal property, and any 10808
combination of the foregoing which is owned by a public utility or 10809
common carrier and used by it or in connection with the movement 10810
of persons, is acquired by exercise of the power of eminent 10811
domain. 10812

(16) When real property is acquired that is located outside 10813
the county and is removed from the tax duplicate, the county 10814
transit board or board of county commissioners operating a transit 10815
system shall pay annually to the county treasurer of the county in 10816
which that property is located, commencing with the first tax year 10817
in which that property is removed from the tax duplicate, an 10818
amount of money in lieu of taxes equal to the smaller of the 10819
following: 10820

(a) The last annual installment of taxes due from the 10821
acquired property before removal from the tax duplicate; 10822

(b) An amount equal to the difference between the combined 10823
revenue from real estate taxes of all the taxing districts in 10824
which the property is located in the tax year immediately prior to 10825
the removal of the acquired property from the tax duplicate, and 10826
either: 10827

(i) The total revenue which would be produced by the tax rate 10828
of each such taxing district in the tax year immediately prior to 10829
the removal of the acquired property from the tax duplicate, 10830
applied to the real estate tax duplicate of each of such taxing 10831

districts in each tax year subsequent to the year of removal; or 10832

(ii) The combined revenue from real estate taxes of all such 10833
taxing districts in each tax year subsequent to the year of 10834
removal, whichever is the greater. 10835

The county transit board or board of county commissioners may 10836
be exempted from such payment by agreement of the affected taxing 10837
district or districts in the county in which the property is 10838
located. 10839

The county auditor of the county in which that property is 10840
located shall apportion each such annual payment to each taxing 10841
district as if the annual payment had been levied and collected as 10842
a tax. 10843

Those annual payments shall never again be made after they 10844
have ceased. 10845

(17) Sue or be sued, plead or be impleaded, and be held 10846
liable in any court of proper jurisdiction for damages received by 10847
reason of negligence, in the same manner and to the same extent as 10848
if the county transit system were privately operated, provided, 10849
that no funds of a county other than those of the county transit 10850
board or, if the transit system is operated by the board of county 10851
commissioners, other than those in the account for the county 10852
transit system created under division (C) of section 306.01 of the 10853
Revised Code, shall be available for the satisfaction of judgments 10854
rendered against that system; 10855

(18) Annually prepare and make available for public 10856
inspection a report in condensed form showing the financial 10857
results of the operation of the county transit system. For systems 10858
operated by a county transit board, copies of this report shall be 10859
furnished to the county commissioners as well as a monthly summary 10860
statement of revenues and expenses for the preceding month 10861
sufficient to show the exact financial condition of the county 10862

transit system as of the last day of the preceding month. 10863

(19) With the approval of the county commissioners when the 10864
action is taken by the transit board, and without competitive 10865
bidding, sell, lease, or grant the right of use of all or a 10866
portion of the county transit system to any other political 10867
subdivision, taxing district, or other public body or agency 10868
having the power to operate a transit system; 10869

(20) Enter into and supervise franchise agreements for the 10870
operation of a county transit system; 10871

(21) Accept the assignment of and then supervise an existing 10872
franchise agreement for the operation of a county transit system. 10873

Sec. 306.36. (A) The board of trustees of a regional transit 10874
authority may exercise the power of eminent domain to appropriate 10875
any land, rights, rights-of-way, franchise, power lines, 10876
easements, or other property, within or without the territorial 10877
boundaries of the regional transit authority, necessary or proper 10878
for the construction or efficient operation of any transit 10879
facility or access thereto under its jurisdiction pursuant to the 10880
procedure provided in sections 163.01 to 163.22, inclusive, of the 10881
Revised Code, and subject to division (B) of this section, 10882
provided that a regional transit authority shall not proceed to so 10883
appropriate real property outside its territorial boundaries, 10884
until it has served at the office of the county commissioners of 10885
the county in which it is proposed to appropriate real property, a 10886
notice describing the real property to be taken and the purpose 10887
for which it is proposed to be taken, and such county 10888
commissioners have entered on their journal within thirty days 10889
after such service a resolution approving such appropriation. 10890

(B) Nothing contained in sections 306.30 to 306.53, 10891
inclusive, of the Revised Code authorizes a regional transit 10892
authority to appropriate any land, rights, rights-of-way, 10893

franchises, or easements belonging to the state or a municipal 10894
corporation without the consent of the state or municipal 10895
corporation, and no regional transit authority shall exercise the 10896
right of eminent domain to acquire any certificate of public 10897
convenience and necessity, or any part thereof, issued to a 10898
for-hire motor ~~transportation company~~ carrier by the public 10899
utilities commission of Ohio or by the ~~interstate commerce~~ 10900
~~commission of the United States~~ federal motor carrier safety 10901
administration, or to take or disturb other property or facilities 10902
belonging to any political subdivision, public corporation, public 10903
utility, or common carrier, which property or facility is 10904
necessary and convenient in the operation of such political 10905
subdivision, public corporation, public utility, or common 10906
carrier, unless provision is made for the restoration, relocation, 10907
or duplication of such property or facility, or upon the election 10908
of such political subdivision, public corporation, public utility, 10909
or common carrier, for the payment of compensation, if any, at the 10910
sole cost of the regional transit authority, provided: 10911

(1) If any restoration or duplication of any property or 10912
facility proposed to be made under this division involves a 10913
relocation of such property or facility the new facility and 10914
location thereof shall be of at least comparable utilitarian value 10915
and effectiveness and such relocation shall not impair the ability 10916
of the public utility or common carrier to compete in its original 10917
area of operation. 10918

(2) If any restoration or duplication of any property or 10919
facility proposed to be made under this division involves a 10920
relocation of such property or facility, the regional transit 10921
authority shall acquire no interest or right in or to the 10922
appropriated property or facility until the relocated property or 10923
facility is available for use and until marketable title thereto 10924
has been transferred to the public utility or common carrier. 10925

(C) When real property is acquired which is located outside 10926
the territorial boundaries of the regional transit authority and 10927
which is removed from the tax duplicate, the regional transit 10928
authority shall pay annually to the county treasurer of the county 10929
in which such property is located, commencing with the first tax 10930
year in which such property is removed from the tax duplicate, an 10931
amount of money in lieu of taxes equal to the smaller of the 10932
following: 10933

(1) The last annual installment of taxes due from the 10934
acquired property before removal from the tax duplicate; 10935

(2) An amount equal to the difference between the combined 10936
revenue from real estate taxes of all the taxing districts in 10937
which such property is located in the tax year immediately prior 10938
to the removal of such acquired property from the tax duplicate, 10939
and either: 10940

(a) The total revenue which would be produced by the tax rate 10941
of each such taxing district in the tax year immediately prior to 10942
the removal of such acquired property from the tax duplicate, 10943
applied to the real estate tax duplicate of each of such taxing 10944
districts in each tax year subsequent to the year of removal; or 10945

(b) The combined revenue from real estate taxes of all such 10946
taxing districts in each tax year subsequent to the year of 10947
removal, whichever is the greater. 10948

The county auditor of each county in which such property is 10949
located shall apportion each such annual payment to each taxing 10950
district as if such annual payment has been levied and collected 10951
as a tax. 10952

Such annual payments shall never again be made after they 10953
have ceased. 10954

The regional transit authority may be exempted from such 10955
payment by agreement of the affected taxing district or districts 10956

in the county in which such property is located. 10957

Sec. 306.55. Beginning July 1, 2011 and until November 5, 10958
2013, the legislative authority of any municipal corporation or 10959
the board of township trustees of any township that has created or 10960
joined a regional transit authority that levies a property tax and 10961
that includes in its membership political subdivisions that are 10962
located in a county having a population of at least four hundred 10963
thousand according to the most recent federal census, may withdraw 10964
the municipal corporation or the unincorporated territory of the 10965
township from the regional transit authority in the manner 10966
provided in this section. The legislative authority ~~of the~~ 10967
~~municipal corporation~~ or board of township trustees ~~of the~~ 10968
~~township~~ proposing to withdraw shall adopt a resolution to submit 10969
the question of withdrawing from the regional transit authority to 10970
the electors of the ~~territory~~ municipal corporation or the 10971
unincorporated area of the township to be withdrawn and shall 10972
certify the proposal to the board of elections for the purpose of 10973
having the proposal placed on the ballot at the next general 10974
election or at a special election conducted on the day of the next 10975
primary election that occurs not less than ninety days after the 10976
resolution is certified to the board of elections. 10977

Upon certification of a proposal to the board of elections 10978
pursuant to this section, the board of elections shall make the 10979
necessary arrangements for the submission of the question to the 10980
electors of the territory to be withdrawn from the regional 10981
transit authority qualified to vote on the question, ~~and the.~~ For 10982
a municipal corporation, the election shall be held, canvassed, 10983
and certified in the same manner as regular elections for the 10984
election of officers of the ~~subdivision~~ municipal corporation 10985
proposing to withdraw from the regional transit authority, except 10986
that the question appearing on the ballot of a municipal 10987
corporation shall read: 10988

"Shall the territory within the 10989
(~~Name name of political subdivision~~ municipal corporation to be 10990
withdrawn) be withdrawn from 10991
(~~Name name of~~) regional transit authority)?" 10992

For the unincorporated area of a township, the election shall 10993
be held, canvassed, and certified in the same manner as regular 10994
elections for the election of officers of the township, except 10995
that question shall only be presented to electors of the 10996
unincorporated area of the township and the question appearing on 10997
the ballot of the unincorporated area of the township shall read: 10998

"Shall the territory of the unincorporated area of 10999
(name of township to be withdrawn) be withdrawn from (name 11000
of regional transit authority)?" 11001

The legislative authority of a municipal corporation or board 11002
of trustees of a township, by vote of two-thirds of all members of 11003
the legislative authority or board, may adopt a resolution and 11004
certify that resolution to the board of elections for the combined 11005
purpose of withdrawing from a regional transit authority as 11006
provided in this section and levying a property tax pursuant to 11007
division (XX) of section 5705.19 of the Revised Code for a 11008
municipal corporation and section 5705.72 of the Revised Code for 11009
a township. If the questions are combined, the question appearing 11010
on the ballot shall be as provided in section 5705.252 of the 11011
Revised Code. 11012

~~If the question is approved by at least a majority of the 11013
electors voting on the question, the withdrawal is effective six 11014
months from the date of the certification of its passage. 11015~~

The board of elections to which the resolution was certified 11016
shall certify the results of the election to the board or 11017
legislative authority of the subdivision that submitted the 11018
resolution to withdraw and to the board of trustees of the 11019

regional transit authority from which the subdivision proposed to 11020
withdraw. If the question is approved by at least a majority of 11021
the electors voting on the question, the municipal corporation's 11022
or unincorporated area of the township's membership in the 11023
regional transit authority terminates on the thirty-first day of 11024
December of the calendar year in which the election is held. 11025

If the question of withdrawing from the regional transit 11026
authority is approved, the power of the regional transit authority 11027
to levy a tax on taxable property in the affected area of the 11028
withdrawing subdivision terminates beginning with the tax year in 11029
which the election is held, and no taxes from the levy may be 11030
charged for collection against such property for that tax year. 11031

Sec. 307.05. As used in this section, "emergency medical 11032
service organization" has the same meaning as in section 4765.01 11033
of the Revised Code. 11034

A board of county commissioners may operate an ambulance 11035
service organization or emergency medical service organization, 11036
or, in counties with a population of forty thousand or less, may 11037
operate a nonemergency patient transport service organization, or 11038
may enter into a contract with one or more counties, townships, 11039
municipal corporations, nonprofit corporations, joint emergency 11040
medical services districts, fire and ambulance districts, or 11041
private ambulance owners, regardless of whether such counties, 11042
townships, municipal corporations, nonprofit corporations, joint 11043
emergency medical services districts, fire and ambulance 11044
districts, or private ambulance owners are located within or 11045
without the state, in order to furnish or obtain the services of 11046
ambulance service organizations, to furnish or obtain additional 11047
services from ambulance service organizations in times of 11048
emergency, to furnish or obtain the services of emergency medical 11049
service organizations, or, in counties with a population of forty 11050

thousand or less, to furnish or obtain services of nonemergency 11051
patient transport service organizations, or may enter into a 11052
contract with any such entity to furnish or obtain the interchange 11053
of services from ambulance or emergency medical service 11054
organizations, or, within counties with a population of forty 11055
thousand or less, to furnish or obtain the interchange of services 11056
from nonemergency patient transport service organizations, within 11057
the territories of the contracting subdivisions. Except in the 11058
case of a contract with a joint emergency medical services 11059
district to obtain the services of emergency medical service 11060
organizations, such contracts shall not be entered into with a 11061
public agency or nonprofit corporation that receives more than 11062
half of its operating funds from governmental entities with the 11063
intention of directly competing with the operation of other 11064
ambulance service organizations, nonemergency patient transport 11065
service organizations, or emergency medical service organizations 11066
in the county unless the public agency or nonprofit corporation is 11067
awarded the contract after submitting the lowest and best bid to 11068
the board of county commissioners. Any county wishing to commence 11069
operation of a nonemergency patient transport service organization 11070
or wishing to enter into a contract for the first time to furnish 11071
or obtain services from a nonemergency patient transport service 11072
organization on or after March 1, 1993, including a county in 11073
which a private provider has been providing the service, shall 11074
demonstrate the need for public funding for the service to, and 11075
obtain approval from, the state board of emergency medical, fire, 11076
and transportation services or its immediate successor board prior 11077
to operating or funding the organization. 11078

When such an organization is operated by the board, the 11079
organization may be administered by the board, by the county 11080
sheriff, or by another county officer or employee designated by 11081
the board. All rules, including the determining of reasonable 11082
rates, necessary for the establishment, operation, and maintenance 11083

of such an organization shall be adopted by the board. 11084

A contract for services of an ambulance service, nonemergency 11085
patient transport service, or emergency medical service 11086
organization shall include the terms, conditions, and stipulations 11087
as agreed to by the parties to the contract. It may provide for a 11088
fixed annual charge to be paid at the times agreed upon and 11089
stipulated in the contract, or for compensation based upon a 11090
stipulated price for each run, call, or emergency or the number of 11091
persons or pieces of apparatus employed, or the elapsed time of 11092
service required in such run, call, or emergency, or any 11093
combination thereof. 11094

Sec. 307.051. As used in this section, "emergency medical 11095
service organization" has the same meaning as in section 4766.01 11096
of the Revised Code. 11097

A board of county commissioners, by adoption of an 11098
appropriate resolution, may choose to have the ~~Ohio~~ state board of 11099
emergency medical, fire, and transportation ~~board~~ services license 11100
any emergency medical service organization it operates. If a board 11101
adopts such a resolution, Chapter 4766. of the Revised Code, 11102
except for sections 4766.06 and 4766.99 of the Revised Code, 11103
applies to the county emergency medical service organization. All 11104
rules adopted under the applicable sections of that chapter also 11105
apply to the organization. A board, by adoption of an appropriate 11106
resolution, may remove its emergency medical service organization 11107
from the jurisdiction of the ~~Ohio~~ state board of emergency 11108
medical, fire, and transportation ~~board~~ services. 11109

Sec. 307.055. (A) Subject to the terms and conditions of the 11110
joint resolution creating it, each joint emergency medical 11111
services district may furnish ambulance services and emergency 11112
medical services by one of the following methods: 11113

| | |
|---|---|
| (1) By operating an emergency medical service organization as defined in section 4765.01 of the Revised Code; | 11114 11115 |
| (2) By contracting for the operation of one or more facilities pursuant to division (C) or (D) of this section; | 11116 11117 |
| (3) By providing necessary services and equipment to the district either directly or under a contract entered into pursuant to division (B) of this section; | 11118 11119 11120 |
| (4) By providing service through any combination of methods described in divisions (A)(1) to (3) of this section. | 11121 11122 |
| (B) In order to obtain ambulance service, to obtain additional ambulance service in times of emergency, or to obtain emergency medical services, a joint emergency medical services district may enter into a contract, for a period not to exceed three years, with one or more counties, townships, municipal corporations, joint fire districts, other governmental units that provide ambulance service or emergency medical services, nonprofit corporations, or private ambulance owners, regardless of whether the entities contracted with are located within or outside this state, upon such terms as are agreed to, to furnish or receive ambulance services or the interchange of ambulance services or emergency medical services within the several territories of the contracting subdivisions, if the contract is first authorized by all boards of trustees and legislative authorities in the territories to be served. | 11123 11124 11125 11126 11127 11128 11129 11130 11131 11132 11133 11134 11135 11136 11137 |
| Such a contract may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract; or for compensation based on a stipulated price for each run, call, or emergency or based on the elapsed time of service required for each run, call, or emergency, or based on any combination of these. | 11138 11139 11140 11141 11142 11143 |
| Expenditures of a district for ambulance service or emergency | 11144 |

medical service, whether pursuant to contract or otherwise, are 11145
lawful expenditures, regardless of whether the district or the 11146
party with which it contracts charges an additional fee to users 11147
of the service. 11148

(C) The board of trustees may enter into a contract with any 11149
person, municipal corporation, township, or other political 11150
subdivision, and any political subdivision may contract with the 11151
board, for the operation and maintenance of emergency medical 11152
services facilities regardless of whether the facilities used are 11153
owned or leased by the district, by another political subdivision, 11154
or by the contractor. 11155

(D) The district may purchase, lease, and maintain all 11156
materials, buildings, land, and equipment, including vehicles, the 11157
board considers necessary for the district. 11158

When the board finds, by resolution, that the district has 11159
personal property that is not needed for public use, or is 11160
obsolete or unfit for the use for which it was acquired, the board 11161
may dispose of the property in the same manner as provided in 11162
section 307.12 of the Revised Code. 11163

(E) Except in the case of a contract with a board of county 11164
commissioners for the provision of services of an emergency 11165
medical service organization, any contract entered into by a joint 11166
emergency medical services district shall conform to the same 11167
bidding requirements that apply to county contracts under sections 11168
307.86 to 307.92 of the Revised Code. 11169

(F) A county participating in a joint district may contribute 11170
any of its rights or interests in real or personal property, 11171
including money, and may contribute services to the district. Any 11172
such contributions shall be made by a written agreement between 11173
the contributing county and the district, specifying the 11174
contribution as well as the rights of the participating counties 11175

in the contributed property. Written agreements shall also be 11176
prepared specifying the rights of participating counties in 11177
property acquired by the district other than by contribution of a 11178
participating county. Written agreements required by this division 11179
may be amended only by written agreement of all parties to the 11180
original agreement. 11181

(G) A district's board of trustees, by adoption of an 11182
appropriate resolution, may choose to have the ~~Ohio~~ state board of 11183
emergency medical, fire, and transportation ~~board~~ services license 11184
any emergency medical service organization the district operates. 11185
If a board adopts such a resolution, Chapter 4766. of the Revised 11186
Code, except for sections 4766.06 and 4766.99 of the Revised Code, 11187
applies to the district emergency medical service organization. 11188
All rules adopted under the applicable sections of that chapter 11189
also apply to the organization. A board, by adoption of an 11190
appropriate resolution, may remove the district emergency medical 11191
service organization from the jurisdiction of the ~~Ohio~~ state board 11192
of emergency medical, fire, and transportation ~~board~~ services. 11193

Sec. 309.09. (A) The prosecuting attorney shall be the legal 11194
adviser of the board of county commissioners, board of elections, 11195
all other county officers and boards, and all tax-supported public 11196
libraries, and any of them may require written opinions or 11197
instructions from the prosecuting attorney in matters connected 11198
with their official duties. The prosecuting attorney shall 11199
prosecute and defend all suits and actions that any such officer, 11200
board, or tax-supported public library directs or to which it is a 11201
party, and no county officer may employ any other counsel or 11202
attorney at the expense of the county, except as provided in 11203
section 305.14 of the Revised Code. The prosecuting attorney shall 11204
also defend all civil actions in the court of common pleas brought 11205
pursuant to division (B)(1) of section 2743.48 of the Revised 11206
Code. 11207

(B)(1) The prosecuting attorney shall be the legal adviser 11208
for all township officers, boards, and commissions, unless, 11209
subject to division (B)(2) of this section, the township has 11210
adopted a limited home rule government pursuant to Chapter 504. of 11211
the Revised Code and has not entered into a contract to have the 11212
prosecuting attorney serve as the township law director, in which 11213
case, subject to division (B)(2) of this section, the township law 11214
director, whether serving full-time or part-time, shall be the 11215
legal adviser for all township officers, boards, and commissions. 11216
When the board of township trustees finds it advisable or 11217
necessary to have additional legal counsel, it may employ an 11218
attorney other than the township law director or the prosecuting 11219
attorney of the county, either for a particular matter or on an 11220
annual basis, to represent the township and its officers, boards, 11221
and commissions in their official capacities and to advise them on 11222
legal matters. No such legal counsel may be employed, except on 11223
the order of the board of township trustees, duly entered upon its 11224
journal, in which the compensation to be paid for the legal 11225
services shall be fixed. The compensation shall be paid from the 11226
township fund. 11227

Nothing in this division confers any of the powers or duties 11228
of a prosecuting attorney under section 309.08 of the Revised Code 11229
upon a township law director. 11230

(2)(a) If any township in the county served by the 11231
prosecuting attorney has adopted any resolution regarding the 11232
operation of adult entertainment establishments pursuant to the 11233
authority that is granted under section 503.52 of the Revised Code 11234
or if a resolution of that nature has been adopted under section 11235
503.53 of the Revised Code in a township in the county served by 11236
the prosecuting attorney, all of the following apply: 11237

(i) Upon the request of a township in the county that has 11238
adopted, or in which has been adopted, a resolution of that nature 11239

that is made pursuant to division (E)(1)(c) of section 503.52 of 11240
the Revised Code, the prosecuting attorney shall prosecute and 11241
defend on behalf of the township in the trial and argument in any 11242
court or tribunal of any challenge to the validity of the 11243
resolution. If the challenge to the validity of the resolution is 11244
before a federal court, the prosecuting attorney may request the 11245
attorney general to assist the prosecuting attorney in prosecuting 11246
and defending the challenge and, upon the prosecuting attorney's 11247
making of such a request, the attorney general shall assist the 11248
prosecuting attorney in performing that service if the resolution 11249
was drafted in accordance with legal guidance provided by the 11250
attorney general as described in division (B)(2) of section 503.52 11251
of the Revised Code. The attorney general shall provide this 11252
assistance without charge to the township for which the service is 11253
performed. If a township adopts a resolution without the legal 11254
guidance of the attorney general, the attorney general is not 11255
required to provide assistance as described in this division to a 11256
prosecuting attorney. 11257

(ii) Upon the request of a township in the county that has 11258
adopted, or in which has been adopted, a resolution of that nature 11259
that is made pursuant to division (E)(1)(a) of section 503.52 of 11260
the Revised Code, the prosecuting attorney shall prosecute and 11261
defend on behalf of the township a civil action to enjoin the 11262
violation of the resolution in question. 11263

(iii) Upon the request of a township in the county that has 11264
adopted, or in which has been adopted, a resolution of that nature 11265
that is made pursuant to division (E)(1)(b) of section 503.52 of 11266
the Revised Code, the prosecuting attorney shall prosecute and 11267
defend on behalf of the township a civil action under Chapter 11268
3767. of the Revised Code to abate as a nuisance the place in the 11269
unincorporated area of the township at which the resolution is 11270
being or has been violated. Proceeds from the sale of personal 11271

property or contents seized pursuant to the action shall be 11272
applied and deposited in accordance with division (E)(1)(b) of 11273
section 503.52 of the Revised Code. 11274

(b) The provisions of division (B)(2)(a) of this section 11275
apply regarding all townships, including townships that have 11276
adopted a limited home rule government pursuant to Chapter 504. of 11277
the Revised Code, and regardless of whether a township that has so 11278
adopted a limited home rule government has entered into a contract 11279
with the prosecuting attorney as described in division (B) of 11280
section 504.15 of the Revised Code or has appointed a law director 11281
as described in division (A) of that section. 11282

The prosecuting attorney shall prosecute and defend in the 11283
actions and proceedings described in division (B)(2)(a) of this 11284
section without charge to the township for which the services are 11285
performed. 11286

(C) Whenever the board of county commissioners employs an 11287
attorney other than the prosecuting attorney of the county, 11288
without the authorization of the court of common pleas as provided 11289
in section 305.14 of the Revised Code, either for a particular 11290
matter or on an annual basis, to represent the board in its 11291
official capacity and to advise it on legal matters, the board 11292
shall enter upon its journal an order of the board in which the 11293
compensation to be paid for the legal services shall be fixed. The 11294
compensation shall be paid from the county general fund. The total 11295
compensation paid, in any year, by the board for legal services 11296
under this division shall not exceed the total annual compensation 11297
of the prosecuting attorney for that county. 11298

(D) The prosecuting attorney and the board of county 11299
commissioners jointly may contract with a board of park 11300
commissioners under section 1545.07 of the Revised Code for the 11301
prosecuting attorney to provide legal services to the park 11302
district the board of park commissioners operates. 11303

(E) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint fire district created under section 505.371 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county ~~commissioner~~ commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(F) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint ambulance district created under section 505.71 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(G) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint emergency medical services district created under section 307.052 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(H) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a fire and ambulance district created under section 505.375 of the Revised Code at no cost to the district or may be the legal adviser to the district under a

contract that the prosecuting attorney and the district enter 11336
into, and that the board of county commissioners approves, to 11337
authorize the prosecuting attorney to provide legal services to 11338
the district. 11339

(I) All money received pursuant to a contract entered into 11340
under division (D), (E), (F), (G), or (H) of this section shall be 11341
deposited into the prosecuting attorney's legal services fund, 11342
which shall be established in the county treasury of each county 11343
in which such a contract exists. Moneys in that fund may be 11344
appropriated only to the prosecuting attorney for the purpose of 11345
providing legal services to a park district, joint fire district, 11346
joint ambulance district, joint emergency medical services 11347
district, or a fire and ambulance district, as applicable, under a 11348
contract entered into under the applicable division. 11349

Sec. 313.121. (A) As used in this section, "parent" means 11350
either parent, except that if one parent has been designated the 11351
residential parent and legal custodian of the child, "parent" 11352
means the designated residential parent and legal custodian, and 11353
if a person other than a parent is the child's legal guardian, 11354
"parent" means the legal guardian. 11355

(B) If a child under two years of age dies suddenly when in 11356
apparent good health, the death shall be reported immediately to 11357
the coroner of the county in which the death occurred, as required 11358
by section 313.12 of the Revised Code. Except as provided in 11359
division (C) of this section, the coroner or deputy coroner shall 11360
perform an autopsy on the child. The autopsy shall be performed in 11361
accordance with ~~public health council~~ rules adopted by the 11362
director of health under section 313.122 of the Revised Code. The 11363
coroner or deputy coroner may perform research procedures and 11364
tests when performing the autopsy. 11365

(C) A coroner or deputy coroner is not required to perform an 11366

autopsy if the coroner of the county in which the death occurred 11367
or a court with jurisdiction over the deceased body determines 11368
under section 313.131 of the Revised Code that an autopsy is 11369
contrary to the religious beliefs of the child. If the coroner or 11370
the court makes such a determination, the coroner shall notify the 11371
health district or department of health with jurisdiction in the 11372
area in which the child's parent resides. For purposes of this 11373
division, the religious beliefs of the parents of a child shall be 11374
considered to be the religious beliefs of the child. 11375

(D) If the child's parent makes a written or verbal request 11376
for the preliminary results of the autopsy after the results are 11377
available, the coroner, or a person designated by ~~him~~ the coroner, 11378
shall give the parent an oral statement of the preliminary 11379
results. 11380

The coroner, within a reasonable time after the final results 11381
of the autopsy are reported, shall send written notice of the 11382
results to the state department of health, the health district or 11383
department with jurisdiction in the area in which the child's 11384
parent resides, and, upon the request of a parent of the child, to 11385
the child's attending physician. Upon the written request of a 11386
parent of the child and the payment of the transcript fee required 11387
by section 313.10 of the Revised Code, the coroner shall send 11388
written notice of the final results to that parent. The notice 11389
sent to the state department of health shall include all of the 11390
information specified ~~by rule of the public health council in~~ in 11391
rules adopted under section 313.122 of the Revised Code. 11392

(E) On the occurrence of any of the following, the health 11393
district or department with jurisdiction in the area in which the 11394
child's parent resides shall offer the parent any counseling or 11395
other supportive services it has available: 11396

(1) When it learns through any source that an autopsy is 11397
being performed on a child under two years of age who died 11398

suddenly when in apparent good health; 11399

(2) When it receives notice that the final result of an 11400
autopsy performed pursuant to this section concluded that the 11401
child died of sudden infant death syndrome; 11402

(3) When it is notified by the coroner that, pursuant to 11403
division (C) of this section, an autopsy was not performed. 11404

(F) When a health district or department receives notice that 11405
the final result of an autopsy performed pursuant to this section 11406
concluded that the child died of sudden infant death syndrome or 11407
that, pursuant to division (C) of this section, an autopsy was not 11408
performed but sudden infant death syndrome may have been the cause 11409
of death, it shall offer the child's parent information about 11410
sudden infant death syndrome. The state department of health shall 11411
ensure that current information on sudden infant death syndrome is 11412
available for distribution by health districts and departments. 11413

Sec. 313.122. The ~~public~~ director of health council, after 11414
reviewing and considering any recommendations made by the Ohio 11415
state coroners association, shall adopt rules in accordance with 11416
Chapter 119. of the Revised Code establishing a protocol governing 11417
the performance of autopsies under section 313.121 of the Revised 11418
Code. The rules shall specify the information derived from an 11419
autopsy that a coroner is required to report to the state 11420
department of health. The ~~public health council~~ director shall not 11421
amend the rules adopted under this section unless it notifies the 11422
Ohio state coroners association of the proposed changes and 11423
consults with the association. 11424

Sec. 313.16. In counties where no coroner's laboratory has 11425
been established or where the coroner's laboratory does not have 11426
the equipment or personnel to follow the protocol established ~~by~~ 11427
~~rule of~~ in rules adopted by the public director of health council 11428

~~adopted~~ under section 313.122 of the Revised Code, the coroner may 11429
request a coroner of a county in which such a laboratory is 11430
established or that has a laboratory able to follow the ~~public~~ 11431
~~health council's~~ director's protocol to perform necessary 11432
laboratory examinations, the cost of which shall be no greater 11433
than the actual value of the services of technicians and the 11434
materials used in performing such examination. Money derived from 11435
the fees paid for these examinations shall be kept in a special 11436
fund, for the use of the coroner's laboratory, from which fund 11437
replacements can be made. Such funds shall be used to purchase 11438
necessary supplies and equipment for the laboratory and to pay any 11439
associated costs incurred in the administration of this section at 11440
the coroner's discretion. 11441

Sec. 339.091. Before the board of county commissioners, board 11442
of county hospital trustees, or county hospital commission may 11443
enter into an initial agreement for the acquisition, operation, or 11444
lease under section 140.03, 140.05, 339.09, or 339.14 of the 11445
Revised Code of a county hospital operated by a board of county 11446
hospital trustees under section 339.06 of the Revised Code, the 11447
board of county commissioners shall review the agreement. If it 11448
finds that the agreement will meet the needs of the residents of 11449
the county for hospital service, the board of county commissioners 11450
may adopt a resolution authorizing the board of county 11451
commissioners, board of county hospital trustees, or county 11452
hospital commission to enter into the agreement. On adoption of 11453
the resolution, the board of county commissioners, board of county 11454
hospital trustees, or county hospital commission may enter into 11455
the agreement. 11456

The requirements of this section do not apply to an agreement 11457
if one or more hospitals classified as general hospitals by the 11458
~~public~~ director of health ~~council~~ under section 3701.07 of the 11459
Revised Code are operating in the same county as the county 11460

hospital. 11461

Sec. 340.03. (A) Subject to rules issued by the director of 11462
mental health after consultation with relevant constituencies as 11463
required by division (L) of section 5119.06 of the Revised Code, 11464
with regard to mental health services, the board of alcohol, drug 11465
addiction, and mental health services shall: 11466

(1) Serve as the community mental health planning agency for 11467
the county or counties under its jurisdiction, and in so doing it 11468
shall: 11469

(a) Evaluate the need for facilities and community mental 11470
health services; 11471

(b) In cooperation with other local and regional planning and 11472
funding bodies and with relevant ethnic organizations, assess the 11473
community mental health needs, set priorities, and develop plans 11474
for the operation of facilities and community mental health 11475
services; 11476

(c) In accordance with guidelines issued by the director of 11477
mental health after consultation with board representatives, 11478
annually develop and submit to the department of mental health a 11479
community mental health plan listing community mental health 11480
needs, including the needs of all residents of the district now 11481
residing in state mental institutions and severely mentally 11482
disabled adults, children, and adolescents; all children subject 11483
to a determination made pursuant to section 121.38 of the Revised 11484
Code; and all the facilities and community mental health services 11485
that are or will be in operation or provided during the period for 11486
which the plan will be in operation in the service district to 11487
meet such needs. 11488

The plan shall include, but not be limited to, a statement of 11489
which of the services listed in section 340.09 of the Revised Code 11490

the board intends to make available. The board must include crisis 11491
intervention services for individuals in an emergency situation in 11492
the plan and explain how the board intends to make such services 11493
available. The plan must also include a statement of the inpatient 11494
and community-based services the board proposes that the 11495
department operate, an assessment of the number and types of 11496
residential facilities needed, such other information as the 11497
department requests, and a budget for moneys the board expects to 11498
receive. The department shall approve or disapprove the plan, in 11499
whole or in part, according to the criteria developed pursuant to 11500
section 5119.61 of the Revised Code. The department's statement of 11501
approval or disapproval shall specify the inpatient and the 11502
community-based services that the department will operate for the 11503
board. Eligibility for state and federal funding shall be 11504
contingent upon an approved plan or relevant part of a plan. 11505

If a board determines that it is necessary to amend a plan or 11506
an allocation request that has been approved under division 11507
(A)(1)(c) of this section, the board shall submit a proposed 11508
amendment to the director. The director may approve or disapprove 11509
all or part of the amendment. The director shall inform the board 11510
of the reasons for disapproval of all or part of an amendment and 11511
of the criteria that must be met before the amendment may be 11512
approved. The director shall provide the board an opportunity to 11513
present its case on behalf of the amendment. The director shall 11514
give the board a reasonable time in which to meet the criteria, 11515
and shall offer the board technical assistance to help it meet the 11516
criteria. 11517

The board shall implement the plan approved by the 11518
department. 11519

(d) Promote, arrange, and implement working agreements with 11520
social agencies, both public and private, and with judicial 11521
agencies. 11522

(2) Investigate, or request another agency to investigate, 11523
any complaint alleging abuse or neglect of any person receiving 11524
services from a community mental health agency as defined in 11525
section 5122.01 of the Revised Code, or ~~from~~ alleging abuse or 11526
neglect of a person with mental illness or severe mental 11527
disability residing in a residential facility licensed under 11528
section 5119.22 of the Revised Code. If the investigation 11529
substantiates the charge of abuse or neglect, the board shall take 11530
whatever action it determines is necessary to correct the 11531
situation, including notification of the appropriate authorities. 11532
Upon request, the board shall provide information about such 11533
investigations to the department. 11534

(3) For the purpose of section 5119.611 of the Revised Code, 11535
cooperate with the director of mental health in visiting and 11536
evaluating whether the services of a community mental health 11537
agency satisfy the certification standards established by rules 11538
adopted under that section; 11539

(4) In accordance with criteria established under division 11540
(E) of section 5119.61 of the Revised Code, review and evaluate 11541
the quality, effectiveness, and efficiency of services provided 11542
through its community mental health plan and submit its findings 11543
and recommendations to the department of mental health; 11544

(5) In accordance with section 5119.22 of the Revised Code, 11545
review applications for residential facility licenses and 11546
recommend to the department of mental health approval or 11547
disapproval of applications; 11548

(6) Audit, in accordance with rules adopted by the auditor of 11549
state pursuant to section 117.20 of the Revised Code, at least 11550
annually all programs and services provided under contract with 11551
the board. In so doing, the board may contract for or employ the 11552
services of private auditors. A copy of the fiscal audit report 11553
shall be provided to the director of mental health, the auditor of 11554

state, and the county auditor of each county in the board's 11555
district. 11556

(7) Recruit and promote local financial support for mental 11557
health programs from private and public sources; 11558

(8)(a) Enter into contracts with public and private 11559
facilities for the operation of facility services included in the 11560
board's community mental health plan and enter into contracts with 11561
public and private community mental health agencies for the 11562
provision of community mental health services that are listed in 11563
section 340.09 of the Revised Code and included in the board's 11564
community mental health plan. The board may not contract with a 11565
community mental health agency to provide community mental health 11566
services included in the board's community mental health plan 11567
unless the services are certified by the director of mental health 11568
under section 5119.611 of the Revised Code. Section 307.86 of the 11569
Revised Code does not apply to contracts entered into under this 11570
division. In contracting with a community mental health agency, a 11571
board shall consider the cost effectiveness of services provided 11572
by that agency and the quality and continuity of care, and may 11573
review cost elements, including salary costs, of the services to 11574
be provided. A utilization review process shall be established as 11575
part of the contract for services entered into between a board and 11576
a community mental health agency. The board may establish this 11577
process in a way that is most effective and efficient in meeting 11578
local needs. Until July 1, 2012, a contract with a community 11579
mental health agency or facility, as defined in section 5111.023 11580
of the Revised Code, to provide services listed in division (B) of 11581
that section shall provide for the agency or facility to be paid 11582
in accordance with the contract entered into between the 11583
departments of job and family services and mental health under 11584
section 5111.91 of the Revised Code and any rules adopted under 11585
division (A) of section 5119.61 of the Revised Code. 11586

If either the board or a facility or community mental health agency with which the board contracts under division (A)(8)(a) of this section proposes not to renew the contract or proposes substantial changes in contract terms, the other party shall be given written notice at least one hundred twenty days before the expiration date of the contract. During the first sixty days of this one hundred twenty-day period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order to continue to provide services to persons in need. If the dispute has not been resolved sixty days before the expiration date of the contract, either party may ~~request that~~ notify the department of mental health of the unresolved dispute. The director may require both parties to submit the dispute to a third party with the cost to be shared by the board and the facility or community mental health agency. The third party shall issue to the board ~~and, the~~ facility or agency, and the department recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension. The director shall adopt rules establishing the procedures of this dispute resolution process.

(b) With the prior approval of the director of mental health, a board may operate a facility or provide a community mental health service as follows, if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community mental health service

for no longer than one year; 11619

(iii) In a service district with a population of less than 11620
one hundred thousand, a board may operate a facility or provide a 11621
community mental health service for no longer than one year, 11622
except that such a board may operate a facility or provide a 11623
community mental health service for more than one year with the 11624
prior approval of the director and the prior approval of the board 11625
of county commissioners, or of a majority of the boards of county 11626
commissioners if the district is a joint-county district. 11627

The director shall not give a board approval to operate a 11628
facility or provide a community mental health service under 11629
division (A)(8)(b)(ii) or (iii) of this section unless the 11630
director determines that it is not feasible to have the department 11631
operate the facility or provide the service. 11632

The director shall not give a board approval to operate a 11633
facility or provide a community mental health service under 11634
division (A)(8)(b)(iii) of this section unless the director 11635
determines that the board will provide greater administrative 11636
efficiency and more or better services than would be available if 11637
the board contracted with a private or public facility or 11638
community mental health agency. 11639

The director shall not give a board approval to operate a 11640
facility previously operated by a person or other government 11641
entity unless the board has established to the director's 11642
satisfaction that the person or other government entity cannot 11643
effectively operate the facility or that the person or other 11644
government entity has requested the board to take over operation 11645
of the facility. The director shall not give a board approval to 11646
provide a community mental health service previously provided by a 11647
community mental health agency unless the board has established to 11648
the director's satisfaction that the agency cannot effectively 11649
provide the service or that the agency has requested the board 11650

take over providing the service. 11651

The director shall review and evaluate a board's operation of 11652
a facility and provision of community mental health service under 11653
division (A)(8)(b) of this section. 11654

Nothing in division (A)(8)(b) of this section authorizes a 11655
board to administer or direct the daily operation of any facility 11656
or community mental health agency, but a facility or agency may 11657
contract with a board to receive administrative services or staff 11658
direction from the board under the direction of the governing body 11659
of the facility or agency. 11660

(9) Approve fee schedules and related charges or adopt a unit 11661
cost schedule or other methods of payment for contract services 11662
provided by community mental health agencies in accordance with 11663
guidelines issued by the department as necessary to comply with 11664
state and federal laws pertaining to financial assistance; 11665

(10) Submit to the director and the county commissioners of 11666
the county or counties served by the board, and make available to 11667
the public, an annual report of the programs under the 11668
jurisdiction of the board, including a fiscal accounting; 11669

(11) Establish, to the extent resources are available, a 11670
community support system, which provides for treatment, support, 11671
and rehabilitation services and opportunities. The essential 11672
elements of the system include, but are not limited to, the 11673
following components in accordance with section 5119.06 of the 11674
Revised Code: 11675

(a) To locate persons in need of mental health services to 11676
inform them of available services and benefits mechanisms; 11677

(b) Assistance for clients to obtain services necessary to 11678
meet basic human needs for food, clothing, shelter, medical care, 11679
personal safety, and income; 11680

| | |
|---|---|
| (c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care; | 11681 11682 11683 |
| (d) Emergency services and crisis intervention; | 11684 |
| (e) Assistance for clients to obtain vocational services and opportunities for jobs; | 11685 11686 |
| (f) The provision of services designed to develop social, community, and personal living skills; | 11687 11688 |
| (g) Access to a wide range of housing and the provision of residential treatment and support; | 11689 11690 |
| (h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others; | 11691 11692 11693 |
| (i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services; | 11694 11695 11696 11697 11698 |
| (j) Grievance procedures and protection of the rights of consumers of mental health services; | 11699 11700 |
| (k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured. | 11701 11702 11703 |
| (12) Designate the treatment program, agency, or facility for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code and authorize payment for such treatment. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the services listed in section 340.09 of the Revised Code are available to | 11704 11705 11706 11707 11708 11709 11710 |

severely mentally disabled persons residing within its service 11711
district. The board shall establish the procedure for authorizing 11712
payment for services, which may include prior authorization in 11713
appropriate circumstances. The board may provide for services 11714
directly to a severely mentally disabled person when life or 11715
safety is endangered and when no community mental health agency is 11716
available to provide the service. 11717

(13) Establish a method for evaluating referrals for 11718
involuntary commitment and affidavits filed pursuant to section 11719
5122.11 of the Revised Code in order to assist the probate 11720
division of the court of common pleas in determining whether there 11721
is probable cause that a respondent is subject to involuntary 11722
hospitalization and what alternative treatment is available and 11723
appropriate, if any; 11724

(14) Ensure that apartments or rooms built, subsidized, 11725
renovated, rented, owned, or leased by the board or a community 11726
mental health agency have been approved as meeting minimum fire 11727
safety standards and that persons residing in the rooms or 11728
apartments are receiving appropriate and necessary services, 11729
including culturally relevant services, from a community mental 11730
health agency. This division does not apply to residential 11731
facilities licensed pursuant to section 5119.22 of the Revised 11732
Code. 11733

(15) Establish a mechanism for involvement of consumer 11734
recommendation and advice on matters pertaining to mental health 11735
services in the alcohol, drug addiction, and mental health service 11736
district. 11737

~~(16) Perform the duties under section 5119.88 of the Revised 11738
Code required by rules adopted under section 5119.61 of the 11739
Revised Code regarding referrals by the board or mental health 11740
agencies under contract with the board of individuals with mental 11741
illness or severe mental disability to adult care facilities and 11742~~

~~effective arrangements for ongoing mental health services for the 11743
individuals. The board is accountable in the manner specified in 11744
the rules for ensuring that the ongoing mental health services are 11745
effectively arranged for the individuals. 11746~~

(B) The board shall establish such rules, operating 11747
procedures, standards, and bylaws, and perform such other duties 11748
as may be necessary or proper to carry out the purposes of this 11749
chapter. 11750

(C) A board of alcohol, drug addiction, and mental health 11751
services may receive by gift, grant, devise, or bequest any 11752
moneys, lands, or property for the benefit of the purposes for 11753
which the board is established, and may hold and apply it 11754
according to the terms of the gift, grant, or bequest. All money 11755
received, including accrued interest, by gift, grant, or bequest 11756
shall be deposited in the treasury of the county, the treasurer of 11757
which is custodian of the alcohol, drug addiction, and mental 11758
health services funds to the credit of the board and shall be 11759
available for use by the board for purposes stated by the donor or 11760
grantor. 11761

(D) No board member or employee of a board of alcohol, drug 11762
addiction, and mental health services shall be liable for injury 11763
or damages caused by any action or inaction taken within the scope 11764
of the board member's official duties or the employee's 11765
employment, whether or not such action or inaction is expressly 11766
authorized by this section, section 340.033, or any other section 11767
of the Revised Code, unless such action or inaction constitutes 11768
willful or wanton misconduct. Chapter 2744. of the Revised Code 11769
applies to any action or inaction by a board member or employee of 11770
a board taken within the scope of the board member's official 11771
duties or employee's employment. For the purposes of this 11772
division, the conduct of a board member or employee shall not be 11773
considered willful or wanton misconduct if the board member or 11774

employee acted in good faith and in a manner that the board member 11775
or employee reasonably believed was in or was not opposed to the 11776
best interests of the board and, with respect to any criminal 11777
action or proceeding, had no reasonable cause to believe the 11778
conduct was unlawful. 11779

(E) The meetings held by any committee established by a board 11780
of alcohol, drug addiction, and mental health services shall be 11781
considered to be meetings of a public body subject to section 11782
121.22 of the Revised Code. 11783

Sec. 340.091. Each board of alcohol, drug addiction, and 11784
mental health services shall contract with a community mental 11785
health agency under division (A)(7)(a) of section 340.03 of the 11786
Revised Code for the agency to do all of the following in 11787
accordance with rules adopted under section 5119.61 of the Revised 11788
Code for an individual referred to the agency under division 11789
~~(C)~~(D)(2) of section 5119.69 of the Revised Code: 11790

(A) Assess the individual ~~to determine whether to recommend~~ 11791
~~that a residential state supplement administrative agency~~ 11792
~~designated under section 5119.69 of the Revised Code determine~~ 11793
and, if the agency determines that the environment in which the 11794
individual will be living while receiving residential state 11795
supplement payments is appropriate for the individual's needs ~~and,~~ 11796
~~if it determines the environment is appropriate, issue the a~~ 11797
recommendation to the referring residential state supplement 11798
administrative agency that the referring agency should conclude 11799
that the living environment is appropriate when it makes its 11800
determination regarding the appropriateness of the environment; 11801

(B) Provide ongoing monitoring to ensure that services 11802
provided under section 340.09 of the Revised Code are available to 11803
the individual; 11804

(C) Provide discharge planning to ensure the individual's 11805

earliest possible transition to a less restrictive environment. 11806

Sec. 505.37. (A) The board of township trustees may establish 11807
all necessary rules to guard against the occurrence of fires and 11808
to protect the property and lives of the citizens against damage 11809
and accidents, and may, with the approval of the specifications by 11810
the prosecuting attorney or, if the township has adopted limited 11811
home rule government under Chapter 504. of the Revised Code, with 11812
the approval of the specifications by the township's law director, 11813
purchase, lease, lease with an option to purchase, or otherwise 11814
provide any fire apparatus, mechanical resuscitators, or other 11815
equipment, appliances, materials, fire hydrants, and water supply 11816
for fire-fighting purposes that seems advisable to the board. The 11817
board shall provide for the care and maintenance of fire 11818
equipment, and, for these purposes, may purchase, lease, lease 11819
with an option to purchase, or construct and maintain necessary 11820
buildings, and it may establish and maintain lines of fire-alarm 11821
communications within the limits of the township. The board may 11822
employ one or more persons to maintain and operate fire-fighting 11823
equipment, or it may enter into an agreement with a volunteer fire 11824
company for the use and operation of fire-fighting equipment. The 11825
board may compensate the members of a volunteer fire company on 11826
any basis and in any amount that it considers equitable. 11827

11828

When the estimated cost to purchase fire apparatus, 11829
mechanical resuscitators, other equipment, appliances, materials, 11830
fire hydrants, buildings, or fire-alarm communications equipment 11831
or services exceeds fifty thousand dollars, the contract shall be 11832
let by competitive bidding. When competitive bidding is required, 11833
the board shall advertise once a week for not less than two 11834
consecutive weeks in a newspaper of general circulation within the 11835
township. The board may also cause notice to be inserted in trade 11836
papers or other publications designated by it or to be distributed 11837

by electronic means, including posting the notice on the board's internet web site. If the board posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation within the township, provided that the first notice published in such newspaper meets all of the following requirements:

(1) It is published at least two weeks before the opening of bids.

(2) It includes a statement that the notice is posted on the board's internet web site.

(3) It includes the internet address of the board's internet web site.

(4) It includes instructions describing how the notice may be accessed on the board's internet web site.

The advertisement shall include the time, date, and place where the clerk of the township, or the clerk's designee, will read bids publicly. The time, date, and place of bid openings may be extended to a later date by the board of township trustees, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications not later than ninety-six hours prior to the original time and date fixed for the opening. The board may reject all the bids or accept the lowest and best bid, provided that the successful bidder meets the requirements of section 153.54 of the Revised Code when the contract is for the construction, demolition, alteration, repair, or reconstruction of an improvement.

(B) The boards of township trustees of any two or more townships, or the legislative authorities of any two or more political subdivisions, or any combination of these, may, through joint action, unite in the joint purchase, lease, lease with an option to purchase, maintenance, use, and operation of

fire-fighting equipment, or for any other purpose designated in 11869
sections 505.37 to 505.42 of the Revised Code, and may prorate the 11870
expense of the joint action on any terms that are mutually agreed 11871
upon. 11872

(C) The board of township trustees of any township may, by 11873
resolution, whenever it is expedient and necessary to guard 11874
against the occurrence of fires or to protect the property and 11875
lives of the citizens against damages resulting from their 11876
occurrence, create a fire district of any portions of the township 11877
that it considers necessary. The board may purchase, lease, lease 11878
with an option to purchase, or otherwise provide any fire 11879
apparatus, appliances, materials, fire hydrants, and water supply 11880
for fire-fighting purposes, or may contract for the fire 11881
protection for the fire district as provided in section 9.60 of 11882
the Revised Code. The fire district so created shall be given a 11883
separate name by which it shall be known. 11884

Additional unincorporated territory of the township may be 11885
added to a fire district upon the board's adoption of a resolution 11886
authorizing the addition. A municipal corporation that is within 11887
or adjoining the township may be added to a fire district upon the 11888
board's adoption of a resolution authorizing the addition and the 11889
municipal legislative authority's adoption of a resolution or 11890
ordinance requesting the addition of the municipal corporation to 11891
the fire district. 11892

If the township fire district imposes a tax, additional 11893
unincorporated territory of the township or a municipal 11894
corporation that is within or adjoining the township shall become 11895
part of the fire district only after all of the following have 11896
occurred: 11897

(1) Adoption by the board of township trustees of a 11898
resolution approving the expansion of the territorial limits of 11899
the district and, if the resolution proposes to add a municipal 11900

corporation, adoption by the municipal legislative authority of a 11901
resolution or ordinance requesting the addition of the municipal 11902
corporation to the district; 11903

(2) Adoption by the board of township trustees of a 11904
resolution recommending the extension of the tax to the additional 11905
territory; 11906

(3) Approval of the tax by the electors of the territory 11907
proposed for addition to the district. 11908

Each resolution of the board adopted under division (C)(2) of 11909
this section shall state the name of the fire district, a 11910
description of the territory to be added, and the rate and 11911
termination date of the tax, which shall be the rate and 11912
termination date of the tax currently in effect in the fire 11913
district. 11914

The board of trustees shall certify each resolution adopted 11915
under division (C)(2) of this section to the board of elections in 11916
accordance with section 5705.19 of the Revised Code. The election 11917
required under division (C)(3) of this section shall be held, 11918
canvassed, and certified in the manner provided for the submission 11919
of tax levies under section 5705.25 of the Revised Code, except 11920
that the question appearing on the ballot shall read: 11921

"Shall the territory within 11922
(description of the proposed territory to be added) be added to 11923
..... (name) fire district, and a property tax 11924
at a rate of taxation not exceeding (here insert tax rate) 11925
be in effect for (here insert the number of years the 11926
tax is to be in effect or "a continuing period of time," as 11927
applicable)?" 11928

If the question is approved by at least a majority of the 11929
electors voting on it, the joinder shall be effective as of the 11930
first day of July of the year following approval, and on that 11931

date, the township fire district tax shall be extended to the 11932
taxable property within the territory that has been added. If the 11933
territory that has been added is a municipal corporation and if it 11934
had adopted a tax levy for fire purposes, the levy is terminated 11935
on the effective date of the joinder. 11936

Any municipal corporation may withdraw from a township fire 11937
district created under division (C) of this section by the 11938
adoption by the municipal legislative authority of a resolution or 11939
ordinance ordering withdrawal. On the first day of July of the 11940
year following the adoption of the resolution or ordinance of 11941
withdrawal, the municipal corporation withdrawing ceases to be a 11942
part of the district, and the power of the fire district to levy a 11943
tax upon taxable property in the withdrawing municipal corporation 11944
terminates, except that the fire district shall continue to levy 11945
and collect taxes for the payment of indebtedness within the 11946
territory of the fire district as it was composed at the time the 11947
indebtedness was incurred. 11948

Upon the withdrawal of any municipal corporation from a 11949
township fire district created under division (C) of this section, 11950
the county auditor shall ascertain, apportion, and order a 11951
division of the funds on hand, moneys and taxes in the process of 11952
collection except for taxes levied for the payment of 11953
indebtedness, credits, and real and personal property, either in 11954
money or in kind, on the basis of the valuation of the respective 11955
tax duplicates of the withdrawing municipal corporation and the 11956
remaining territory of the fire district. 11957

A board of township trustees may remove unincorporated 11958
territory of the township from the fire district upon the adoption 11959
of a resolution authorizing the removal. On the first day of July 11960
of the year following the adoption of the resolution, the 11961
unincorporated township territory described in the resolution 11962
ceases to be a part of the district, and the power of the fire 11963

district to levy a tax upon taxable property in that territory 11964
terminates, except that the fire district shall continue to levy 11965
and collect taxes for the payment of indebtedness within the 11966
territory of the fire district as it was composed at the time the 11967
indebtedness was incurred. 11968

(D) The board of township trustees of any township, the board 11969
of fire district trustees of a fire district created under section 11970
505.371 of the Revised Code, or the legislative authority of any 11971
municipal corporation may purchase, lease, or lease with an option 11972
to purchase the necessary fire-fighting equipment, buildings, and 11973
sites for the township, fire district, or municipal corporation 11974
and issue securities for that purpose with maximum maturities as 11975
provided in section 133.20 of the Revised Code. The board of 11976
township trustees, board of fire district trustees, or legislative 11977
authority may also construct any buildings necessary to house 11978
fire-fighting equipment and issue securities for that purpose with 11979
maximum maturities as provided in section 133.20 of the Revised 11980
Code. 11981

The board of township trustees, board of fire district 11982
trustees, or legislative authority may issue the securities of the 11983
township, fire district, or municipal corporation, signed by the 11984
board or designated officer of the municipal corporation and 11985
attested by the signature of the township fiscal officer, fire 11986
district clerk, or municipal clerk, covering any deferred payments 11987
and payable at the times provided, which securities shall bear 11988
interest not to exceed the rate determined as provided in section 11989
9.95 of the Revised Code, and shall not be subject to Chapter 133. 11990
of the Revised Code. The legislation authorizing the issuance of 11991
the securities shall provide for levying and collecting annually 11992
by taxation, amounts sufficient to pay the interest on and 11993
principal of the securities. The securities shall be offered for 11994
sale on the open market or given to the vendor or contractor if no 11995

sale is made. 11996

Section 505.40 of the Revised Code does not apply to any 11997
securities issued, or any lease with an option to purchase entered 11998
into, in accordance with this division. 11999

(E) A board of township trustees of any township or a board 12000
of fire district trustees of a fire district created under section 12001
505.371 of the Revised Code may purchase a policy or policies of 12002
liability insurance for the officers, employees, and appointees of 12003
the fire department, fire district, or joint fire district 12004
governed by the board that includes personal injury liability 12005
coverage as to the civil liability of those officers, employees, 12006
and appointees for false arrest, detention, or imprisonment, 12007
malicious prosecution, libel, slander, defamation or other 12008
violation of the right of privacy, wrongful entry or eviction, or 12009
other invasion of the right of private occupancy, arising out of 12010
the performance of their duties. 12011

When a board of township trustees cannot, by deed of gift or 12012
by purchase and upon terms it considers reasonable, procure land 12013
for a township fire station that is needed in order to respond in 12014
reasonable time to a fire or medical emergency, the board may 12015
appropriate land for that purpose under sections 163.01 to 163.22 12016
of the Revised Code. If it is necessary to acquire additional 12017
adjacent land for enlarging or improving the fire station, the 12018
board may purchase, appropriate, or accept a deed of gift for the 12019
land for these purposes. 12020

(F) As used in this division, "emergency medical service 12021
organization" has the same meaning as in section 4766.01 of the 12022
Revised Code. 12023

A board of township trustees, by adoption of an appropriate 12024
resolution, may choose to have the ~~Ohio~~ state board of emergency 12025
medical, fire, and transportation board services license any 12026

emergency medical service organization it operates. If the board 12027
adopts such a resolution, Chapter 4766. of the Revised Code, 12028
except for sections 4766.06 and 4766.99 of the Revised Code, 12029
applies to the organization. All rules adopted under the 12030
applicable sections of that chapter also apply to the 12031
organization. A board of township trustees, by adoption of an 12032
appropriate resolution, may remove its emergency medical service 12033
organization from the jurisdiction of the ~~Ohio~~ state board of 12034
emergency medical, fire, and transportation board services. 12035

Sec. 505.375. (A)(1)(a) The boards of township trustees of 12036
one or more townships and the legislative authorities of one or 12037
more municipal corporations, or the legislative authorities of two 12038
or more municipal corporations, or the boards of township trustees 12039
of two or more townships, may negotiate an agreement to form a 12040
fire and ambulance district for the delivery of both fire and 12041
ambulance services. The agreement shall be ratified by the 12042
adoption of a joint resolution by a majority of the members of 12043
each board of township trustees involved and a majority of the 12044
members of the legislative authority of each municipal corporation 12045
involved. The joint resolution shall specify a date on which the 12046
fire and ambulance district shall come into being. 12047

(b) If a joint fire district created under section 505.371 of 12048
the Revised Code or a joint ambulance district created under 12049
section 505.71 of the Revised Code is dissolved to facilitate the 12050
creation of a fire and ambulance district under division (A)(1)(a) 12051
of this section, the townships and municipal corporations forming 12052
the fire and ambulance district may transfer to the fire and 12053
ambulance district any of the funds on hand, moneys and taxes in 12054
the process of collection, credits, and real and personal property 12055
apportioned to them under division (D) of section 505.371 of the 12056
Revised Code or section 505.71 of the Revised Code, as applicable, 12057
for use by the fire and ambulance district in accordance with this 12058

section. 12059

(2)(a) The board of trustees of a joint ambulance district 12060
created under section 505.71 of the Revised Code and the board of 12061
fire district trustees of a joint fire district created under 12062
section 505.371 of the Revised Code may negotiate to combine their 12063
two joint districts into a single fire and ambulance district for 12064
the delivery of both fire and ambulance services, if the 12065
geographic area covered by the combining joint districts is 12066
exactly the same. Both boards shall adopt a joint resolution 12067
ratifying the agreement and setting a date on which the fire and 12068
ambulance district shall come into being. 12069

(b) On that date, the joint fire district and the joint 12070
ambulance district shall cease to exist, and the power of each to 12071
levy a tax upon taxable property shall terminate, except that any 12072
levy of a tax for the payment of indebtedness within the territory 12073
of the joint fire or joint ambulance district as it was composed 12074
at the time the indebtedness was incurred shall continue to be 12075
collected by the successor fire and ambulance district if the 12076
indebtedness remains unpaid. All funds and other property of the 12077
joint districts shall become the property of the fire and 12078
ambulance district, unless otherwise provided in the negotiated 12079
agreement. The agreement shall provide for the settlement of all 12080
debts and obligations of the joint districts. 12081

(B)(1) The governing body of a fire and ambulance district 12082
created under division (A)(1) or (2) of this section shall be a 12083
board of trustees of at least three but no more than nine members, 12084
appointed as provided in the agreement creating the district. 12085
Members of the board may be compensated at a rate not to exceed 12086
thirty dollars per meeting for not more than fifteen meetings per 12087
year, and may be reimbursed for all necessary expenses incurred, 12088
as provided in the agreement creating the district. 12089

(2) The board shall employ a clerk and other employees as it 12090

considers best, including a fire chief or fire prevention 12091
officers, and shall fix their compensation. Neither this section 12092
nor any other section of the Revised Code requires, or shall be 12093
construed to require, that the fire chief of a fire and ambulance 12094
district be a resident of the district. 12095

Before entering upon the duties of office, the clerk shall 12096
execute a bond, in the amount and with surety to be approved by 12097
the board, payable to the state, conditioned for the faithful 12098
performance of all of the clerk's official duties. The clerk shall 12099
deposit the bond with the presiding officer of the board, who 12100
shall file a copy of it, certified by the presiding officer, with 12101
the county auditor of the county containing the most territory in 12102
the district. 12103

The board also shall provide for the appointment of a fiscal 12104
officer for the district and may enter into agreements with 12105
volunteer fire companies for the use and operation of 12106
fire-fighting equipment. Volunteer firefighters acting under such 12107
an agreement are subject to the requirements for volunteer 12108
firefighters set forth in division (A) of section 505.38 of the 12109
Revised Code. 12110

(3) Employees of the district shall not be removed from 12111
office except as provided by sections 733.35 to 733.39 of the 12112
Revised Code, except that, to initiate removal proceedings, the 12113
board shall designate a private citizen or, if the employee is 12114
employed as a firefighter, the board may designate the fire chief, 12115
to investigate, conduct the proceedings, and prepare the necessary 12116
charges in conformity with those sections, and except that the 12117
board shall perform the functions and duties specified for the 12118
municipal legislative authority under those sections. The board 12119
may pay reasonable compensation to any private citizen hired for 12120
services rendered in the matter. 12121

(4) No person shall be appointed as a permanent full-time 12122

paid member of the district whose duties include fire fighting, or 12123
be appointed as a volunteer firefighter, unless that person has 12124
received a certificate issued under former section 3303.07 or 12125
section 4765.55 of the Revised Code evidencing satisfactory 12126
completion of a firefighter training program. The board may send 12127
its officers and firefighters to schools of instruction designed 12128
to promote the efficiency of firefighters and, if authorized in 12129
advance, may pay their necessary expenses from the funds used for 12130
the maintenance and operation of the district. 12131

The board may choose, by adoption of an appropriate 12132
resolution, to have the Ohio state board of emergency medical, 12133
fire, and transportation board services license any emergency 12134
medical service organization it operates. If the board adopts such 12135
a resolution, Chapter 4766. of the Revised Code, except for 12136
sections 4766.06 and 4766.99 of the Revised Code, applies to the 12137
organization. All rules adopted under the applicable sections of 12138
that chapter also apply to the organization. The board may remove, 12139
by resolution, its emergency medical service organization from the 12140
jurisdiction of the Ohio state board of emergency medical, fire, 12141
and transportation board services. 12142

(C) The board of trustees of a fire and ambulance district 12143
created under division (A)(1) or (2) of this section may exercise 12144
the following powers: 12145

(1) Purchase or otherwise provide any fire apparatus, 12146
mechanical resuscitators, or other fire or ambulance equipment, 12147
appliances, or materials; fire hydrants; and water supply for 12148
firefighting purposes that seems advisable to the board; 12149

(2) Provide for the care and maintenance of equipment and, 12150
for that purpose, purchase, lease, lease with an option to 12151
purchase, or construct and maintain necessary buildings; 12152

(3) Establish and maintain lines of fire-alarm communications 12153

within the limits of the district; 12154

(4) Appropriate land for a fire station or medical emergency 12155
unit needed in order to respond in reasonable time to a fire or 12156
medical emergency, in accordance with Chapter 163. of the Revised 12157
Code; 12158

(5) Purchase, appropriate, or accept a deed or gift of land 12159
to enlarge or improve a fire station or medical emergency unit; 12160

(6) Purchase, lease, lease with an option to purchase, 12161
maintain, and use all materials, equipment, vehicles, buildings, 12162
and land necessary to perform its duties; 12163

(7) Contract for a period not to exceed three years with one 12164
or more townships, municipal corporations, counties, joint fire 12165
districts, joint ambulance districts, governmental agencies, 12166
nonprofit corporations, or private ambulance owners located either 12167
within or outside the state, to furnish or receive ambulance 12168
services or emergency medical services within the several 12169
territories of the contracting parties, if the contract is first 12170
authorized by all boards of trustees and legislative authorities 12171
concerned; 12172

(8) Establish reasonable charges for the use of ambulance or 12173
emergency medical services under the same conditions under which a 12174
board of fire district trustees may establish those charges under 12175
section 505.371 of the Revised Code; 12176

(9) Establish all necessary rules to guard against the 12177
occurrence of fires and to protect property and lives against 12178
damage and accidents; 12179

(10) Adopt a standard code pertaining to fire, fire hazards, 12180
and fire prevention prepared and promulgated by the state or by a 12181
public or private organization that publishes a model or standard 12182
code; 12183

(11) Provide for charges for false alarms at commercial establishments in the same manner as joint fire districts are authorized to do under section 505.391 of the Revised Code;

(12) Issue bonds and other evidences of indebtedness, subject to Chapter 133. of the Revised Code, but only after approval by a vote of the electors of the district as provided by section 133.18 of the Revised Code;

(13) To provide the services and equipment it considers necessary, levy a sufficient tax, subject to Chapter 5705. of the Revised Code, on all the taxable property in the district.

(D) Any municipal corporation or township may join an existing fire and ambulance district, whether created under division (A)(1) or (2) of this section, by its legislative authority's adoption of a resolution requesting the membership and upon approval of the board of trustees of the district. Any municipal corporation or township may withdraw from a district, whether created under division (A)(1) or (2) of this section, by its legislative authority's adoption of a resolution ordering withdrawal. Upon its withdrawal, the municipal corporation or township ceases to be a part of the district, and the district's power to levy a tax on taxable property in the withdrawing township or municipal corporation terminates, except that the district shall continue to levy and collect taxes for the payment of indebtedness within the territory of the district as it was composed at the time the indebtedness was incurred.

Upon the withdrawal of any township or municipal corporation from a district, the county auditor of the county containing the most territory in the district shall ascertain, apportion, and order a division of the funds on hand, including funds in the ambulance and emergency medical services fund, moneys and taxes in the process of collection, except for taxes levied for the payment of indebtedness, credits, and real and personal property on the

basis of the valuation of the respective tax duplicates of the 12216
withdrawing municipal corporation or township and the remaining 12217
territory of the district. 12218

(E) As used in this section: 12219

(1) "Governmental agency" includes all departments, boards, 12220
offices, commissions, agencies, colleges, universities, 12221
institutions, and other instrumentalities of this or another 12222
state. 12223

(2) "Emergency medical service organization" has the same 12224
meaning as in section 4766.01 of the Revised Code. 12225

Sec. 505.44. As used in this section: 12226

(A) "Emergency medical service organization" has the same 12227
meaning as in section 4765.01 of the Revised Code. 12228

(B) "State agency" means all departments, boards, offices, 12229
commissions, agencies, colleges, universities, institutions, and 12230
other instrumentalities of this or another state. 12231

In order to obtain the services of ambulance service 12232
organizations, to obtain additional services from ambulance 12233
service organizations in times of emergency, to obtain the 12234
services of emergency medical service organizations, or, if the 12235
township is located in a county with a population of forty 12236
thousand or less, to obtain the services of nonemergency patient 12237
transport service organizations, a township may enter into a 12238
contract with one or more state agencies, townships, municipal 12239
corporations, counties, nonprofit corporations, joint emergency 12240
medical services districts, fire and ambulance districts, or 12241
private ambulance owners, regardless of whether such state 12242
agencies, townships, municipal corporations, counties, nonprofit 12243
corporations, joint emergency medical services districts, fire and 12244
ambulance districts, or private ambulance owners are located 12245

within or outside the state, upon such terms as are agreed to by 12246
them, to furnish or receive services from ambulance or emergency 12247
medical service organizations or, if the township is located in a 12248
county with a population of forty thousand or less, to furnish or 12249
receive services from nonemergency patient transport service 12250
organizations, or may enter into a contract for the interchange of 12251
services from ambulance or emergency medical service organizations 12252
or, if the township is located in a county with a population of 12253
forty thousand or less, the interchange of services from 12254
nonemergency patient transport service organizations, within the 12255
several territories of the contracting parties, if the contract is 12256
first authorized by the respective boards of township trustees, 12257
the other legislative bodies, or the officer or body authorized to 12258
contract on behalf of the state agency. Such contracts shall not 12259
be entered into with a state agency or nonprofit corporation that 12260
receives more than half of its operating funds from governmental 12261
entities with the intention of directly competing with the 12262
operation of other ambulance, emergency medical, or nonemergency 12263
patient transport service organizations in the township unless the 12264
state agency or nonprofit corporation is awarded the contract 12265
after submitting the lowest and best bid to the board of township 12266
trustees. 12267

The contract may provide for compensation upon such terms as 12268
the parties may agree. 12269

Any township wishing to commence providing or wishing to 12270
enter into a contract for the first time to furnish or obtain 12271
services from nonemergency patient transport service organizations 12272
on or after March 1, 1993, including a township in which a private 12273
provider has been providing the service, shall demonstrate the 12274
need for public funding for the service to, and obtain approval 12275
from, the state board of emergency medical, fire, and 12276
transportation services or its immediate successor board prior to 12277

the establishment of a township-operated or township-funded 12278
service. 12279

Sec. 505.59. The board of township trustees of a township 12280
that withdraws or proposes by resolution to withdraw the 12281
unincorporated territory of the township from a regional transit 12282
authority under section 306.55 of the Revised Code may levy a tax 12283
on taxable property in the unincorporated area of the township 12284
under section 5705.72 of the Revised Code to provide 12285
transportation services for the movement of persons within, from, 12286
or to the unincorporated area of the township. 12287

Sec. 505.72. (A) The board of trustees of a joint ambulance 12288
district shall provide for the employment of such employees as it 12289
considers best, and shall fix their compensation. Such employees 12290
shall continue in office until removed as provided by sections 12291
733.35 to 733.39 of the Revised Code. To initiate removal 12292
proceedings, and for such purpose, the board shall designate a 12293
private citizen to investigate the conduct and prepare the 12294
necessary charges in conformity with sections 733.35 to 733.39 of 12295
the Revised Code. The board may pay reasonable compensation to 12296
such person for the person's services. 12297

In case of the removal of an employee of the district, an 12298
appeal may be had from the decision of the board to the court of 12299
common pleas of the county in which such district, or part of it, 12300
is situated, to determine the sufficiency of the cause of removal. 12301
Such appeal from the findings of the board shall be taken within 12302
ten days. 12303

(B) As used in this division, "emergency medical service 12304
organization" has the same meaning as in section 4765.01 of the 12305
Revised Code. 12306

(1) In order to obtain the services of ambulance service 12307

organizations, to obtain additional services from ambulance 12308
service organizations in times of emergency, or to obtain the 12309
services of emergency medical service organizations, a district 12310
may enter into a contract, for a period not to exceed three years, 12311
with one or more townships, municipal corporations, joint fire 12312
districts, nonprofit corporations, any other governmental unit 12313
that provides ambulance services or emergency medical services, or 12314
with private ambulance owners, regardless of whether such 12315
townships, municipal corporations, joint fire districts, nonprofit 12316
corporations, governmental unit, or private ambulance owners are 12317
located within or without this state, upon such terms as are 12318
agreed to, to furnish or receive services from ambulance or 12319
emergency medical service organizations or the interchange of 12320
services from ambulance or emergency medical service organizations 12321
within the several territories of the contracting subdivisions, if 12322
such contract is first authorized by all boards of trustees and 12323
legislative authorities concerned. 12324

The contract may provide for a fixed annual charge to be paid 12325
at the times agreed upon and stipulated in the contract, or for 12326
compensation based upon a stipulated price for each run, call, or 12327
emergency, or the elapsed time of service required in such run, 12328
call, or emergency, or any combination thereof. 12329

(2) Expenditures of a district for the services of ambulance 12330
service organizations or emergency medical service organizations, 12331
whether pursuant to contract or otherwise, are lawful 12332
expenditures, regardless of whether the district or the party with 12333
which it contracts charges additional fees to users of the 12334
services. 12335

(3) A district's board of trustees, by adoption of an 12336
appropriate resolution, may choose to have the ~~Ohio~~ state board of 12337
emergency medical, fire, and transportation ~~board~~ services license 12338
any emergency medical service organization the district operates. 12339

If a board adopts such a resolution, Chapter 4766. of the Revised Code, except for sections 4766.06 and 4766.99 of the Revised Code, applies to the district emergency medical service organization. All rules adopted under the applicable sections of that chapter also apply to the organization. A board, by adoption of an appropriate resolution, may remove the district emergency medical service organization from the jurisdiction of the ~~Ohio state board of emergency medical, fire, and transportation board services.~~

(C) Ambulance services or emergency medical services rendered for a joint ambulance district under this section and section 505.71 of the Revised Code shall be deemed services of the district. These sections do not authorize suits against a district or any township or municipal corporation providing or receiving, or contracting to provide or receive, such services under these sections for damages for injury or loss to persons or property or for wrongful death caused by persons providing such services.

Sec. 705.18. An annual appropriation ordinance shall be prepared by the legislative authority of a municipal corporation from estimates submitted by the mayor, the ~~chairman~~ chairperson of the commission, or the city manager, as the case may be, in the manner provided in section 705.17 of the Revised Code for the annual tax ordinance. The annual appropriation ordinance shall be submitted to the legislative authority at its first meeting ~~in January~~ after the beginning of the municipal corporation's fiscal year, and the total of any appropriation ordinance passed by such legislative authority shall not exceed the total balances carried over from the previous fiscal year plus the estimated revenue of the current fiscal year. Supplemental appropriations shall not be made during the current fiscal year except from an contingent fund regularly set aside by the legislative authority in the annual appropriation ordinance or unless by an ordinance passed as an emergency measure.

Sec. 901.54. ~~(A)~~ There is hereby created the office of 12372
farmland preservation within the department of agriculture. The 12373
office shall do all of the following: 12374

~~(1)~~(A) Prepare guidelines and criteria for use in the 12375
development of comprehensive local land use plans that encourage 12376
the efficient use of public infrastructure and the preservation of 12377
farmland; 12378

~~(2)~~(B) Establish a farmland preservation program to 12379
coordinate and assist local farmland preservation initiatives; 12380

~~(3)~~ ~~Administer the pilot farmland preservation fund~~ 12381
~~established in division (B) of this section;~~ 12382

~~(4)~~(C) Educate existing agencies and organizations on the 12383
importance of farmland preservation and on the significance of 12384
agriculture and agribusiness to this state's economy; 12385

~~(5)~~(D) Serve as a liaison with other farmland preservation 12386
entities operating on a state, regional, or national level; 12387

~~(6)~~(E) Prepare an inventory of farmland within this state to 12388
monitor the development of lands within this state having prime 12389
soils or unique microclimates. 12390

~~(B)~~ ~~There is hereby created in the state treasury the pilot~~ 12391
~~farmland preservation fund consisting of moneys received by the~~ 12392
~~office of farmland preservation for the purposes of the fund. The~~ 12393
~~fund shall be administered by the office of farmland preservation.~~ 12394
~~Moneys in the fund shall be used to leverage or match other~~ 12395
~~farmland preservation funds provided from federal, local, or~~ 12396
~~private sources.~~ 12397

Sec. 955.16. (A) Dogs that have been seized by the county dog 12399
warden and impounded shall be kept, housed, and fed for three days 12400
for the purpose of redemption, as provided by section 955.18 of 12401

the Revised Code, unless any of the following applies: 12402

(1) Immediate humane destruction of the dog is necessary 12403
because of obvious disease or injury. If the diseased or injured 12404
dog is registered, as determined from the current year's 12405
registration list maintained by the warden and the county auditor 12406
of the county where the dog is registered, the necessity of 12407
destroying the dog shall be certified by a licensed veterinarian 12408
or a registered veterinary technician. If the dog is not 12409
registered, the decision to destroy it shall be made by the 12410
warden. 12411

(2) The dog is currently registered on the registration list 12412
maintained by the warden and the auditor of the county where the 12413
dog is registered and the attempts to notify the owner, keeper, or 12414
harborer under section 955.12 of the Revised Code have failed, in 12415
which case the dog shall be kept, housed, and fed for fourteen 12416
days for the purpose of redemption. 12417

(3) The warden has contacted the owner, keeper, or harborer 12418
under section 955.12 of the Revised Code, and the owner, keeper, 12419
or harborer has requested that the dog remain in the pound or 12420
animal shelter until the owner, harborer, or keeper redeems the 12421
dog. The time for such redemption shall be not more than 12422
forty-eight hours following the end of the appropriate redemption 12423
period. 12424

At any time after such periods of redemption, any dog not 12425
redeemed shall be donated to any nonprofit special agency that is 12426
engaged in the training of any type of assistance dogs and that 12427
requests that the dog be donated to it. Any dog not redeemed that 12428
is not requested by such an agency may be sold, except that no dog 12429
sold to a person other than a nonprofit teaching or research 12430
institution or organization of the type described in division (B) 12431
of this section shall be discharged from the pound or animal 12432
shelter until the animal has been registered and furnished with a 12433

valid registration tag. 12434

(B) Any dog that is not redeemed within the applicable period 12435
as specified in this section or section 955.12 of the Revised Code 12436
from the time notice is mailed to its owner, keeper, or harborer 12437
or is posted at the pound or animal shelter, as required by 12438
section 955.12 of the Revised Code, and that is not required to be 12439
donated to a nonprofit special agency engaged in the training of 12440
any type of assistance dogs may, upon payment to the dog warden or 12441
poundkeeper of the sum of three dollars, be sold to any nonprofit 12442
Ohio institution or organization that is certified by the ~~Ohio~~ 12443
~~public director of health council~~ as being engaged in teaching or 12444
research concerning the prevention and treatment of diseases of 12445
human beings or animals. Any dog that is donated to a nonprofit 12446
special agency engaged in the training of any type of assistance 12447
dogs in accordance with division (A) of this section and any dog 12448
that is sold to any nonprofit teaching or research institution or 12449
organization shall be discharged from the pound or animal shelter 12450
without registration and may be kept by the agency or by the 12451
institution or organization without registration so long as the 12452
dog is being trained, or is being used for teaching and research 12453
purposes. 12454

Any institution or organization certified by the ~~Ohio public~~ 12455
~~health council~~ director that obtains dogs for teaching and 12456
research purposes pursuant to this section shall, at all 12457
reasonable times, make the dogs available for inspection by agents 12458
of the Ohio humane society, appointed pursuant to section 1717.04 12459
of the Revised Code, and agents of county humane societies, 12460
appointed pursuant to section 1717.06 of the Revised Code, in 12461
order that the agents may prevent the perpetration of any act of 12462
cruelty, as defined in section 1717.01 of the Revised Code, to the 12463
dogs. 12464

(C) Any dog that the dog warden or poundkeeper is unable to 12465

dispose of, in the manner provided by this section and section 12466
955.18 of the Revised Code, may be humanely destroyed, except that 12467
no dog shall be destroyed until twenty-four hours after it has 12468
been offered to a nonprofit teaching or research institution or 12469
organization, as provided in this section, that has made a request 12470
for dogs to the dog warden or poundkeeper. 12471

(D) An owner of a dog that is wearing a valid registration 12472
tag who presents the dog to the dog warden or poundkeeper may 12473
specify in writing that the dog shall not be offered to a 12474
nonprofit teaching or research institution or organization, as 12475
provided in this section. 12476

(E) A record of all dogs impounded, the disposition of the 12477
same, the owner's name and address, if known, and a statement of 12478
costs assessed against the dogs shall be kept by the poundkeeper, 12479
and the poundkeeper shall furnish a transcript thereof to the 12480
county treasurer quarterly. 12481

A record of all dogs received and the source that supplied 12482
them shall be kept, for a period of three years from the date of 12483
acquiring the dogs, by all institutions or organizations engaged 12484
in teaching or research concerning the prevention and treatment of 12485
diseases of human beings or animals. 12486

(F) No person shall destroy any dog by the use of a high 12487
altitude decompression chamber or by any method other than a 12488
method that immediately and painlessly renders the dog initially 12489
unconscious and subsequently dead. 12490

Sec. 955.26. Whenever, in the judgment of the director of 12491
health, any city or general health district board of health, or 12492
persons performing the duties of a board of health, rabies is 12493
prevalent, the director of health, the board, or those persons 12494
shall declare a quarantine of all dogs in the health district or 12495
in a part of it. During the quarantine, the owner, keeper, or 12496

harborer of any dog shall keep it confined on the premises of the 12497
owner, keeper, or harborer, or in a suitable pound or kennel, at 12498
the expense of the owner, keeper, or harborer, except that a dog 12499
may be permitted to leave the premises of its owner, keeper, or 12500
harborer if it is under leash or under the control of a 12501
responsible person. The quarantine order shall be considered an 12502
emergency and need not be published. 12503

When the quarantine has been declared, the director of 12504
health, the board, or those persons may require vaccination for 12505
rabies of all dogs within the health district or part of it. Proof 12506
of rabies vaccination within a satisfactory period shall be 12507
demonstrated to the county auditor before any registration is 12508
issued under section 955.01 of the Revised Code for any dog that 12509
is required to be vaccinated. 12510

The ~~public health council~~ director shall determine 12511
appropriate methods of rabies vaccination and satisfactory periods 12512
for purposes of quarantines under this section. 12513

When a quarantine of dogs has been declared in any health 12514
district or part of a health district, the county dog warden and 12515
all other persons having the authority of police officers shall 12516
assist the health authorities in enforcing the quarantine order. 12517
When rabies vaccination has been declared compulsory in any health 12518
district or part of a health district, the dog warden shall assist 12519
the health authorities in enforcing the vaccination order. 12520

Notwithstanding the provisions of this section, a city or 12521
general health district board of health may make orders pursuant 12522
to sections 3709.20 and 3709.21 of the Revised Code requiring the 12523
vaccination of dogs. 12524

Sec. 991.02. (A) There is hereby created the Ohio expositions 12525
commission, which shall consist of the following ~~thirteen~~ fourteen 12526
members: nine members appointed by the governor with the advice 12527

and consent of the senate; the director of development, the 12528
director of natural resources, and the director of agriculture, or 12529
their designated representatives, who shall be ex officio members 12530
with voting rights of ~~such~~ the commission; and the ~~chairman~~ 12531
chairperson of the standing committee in the house of 12532
representatives to which matters dealing with agriculture are 12533
generally referred and the ~~chairman~~ chairperson of the standing 12534
committee in the senate to which matters dealing with agriculture 12535
are generally referred, who shall be nonvoting members. If the 12536
senate is not in session, recess appointments shall be made by the 12537
governor. 12538

(B) Of the nine members of the commission appointed by the 12539
governor, not more than five shall be from one political party, at 12540
least three members shall receive the major portion of their 12541
income from farming, and at least one member shall, at the time of 12542
~~his~~ appointment, be a member of the board of directors of an 12543
agricultural society ~~which~~ that was organized in compliance with 12544
section 1711.01 or 1711.02 of the Revised Code. Terms of office 12545
shall be for six years, commencing on the second day of December 12546
and ending on the first day of December. Each member shall hold 12547
office from the date of ~~his~~ appointment until the end of the term 12548
for which ~~he~~ the member was appointed. Any member appointed to 12549
fill a vacancy occurring prior to the expiration of the term for 12550
which ~~his~~ the member's predecessor was appointed shall hold office 12551
for the remainder of ~~such~~ that term. Any member shall continue in 12552
office subsequent to the expiration date of ~~his~~ the member's term 12553
until ~~his~~ the member's successor takes office, or until a period 12554
of sixty days has elapsed, whichever occurs first. 12555

The term of each nonvoting, legislative member of the 12556
commission shall be for two years or until the end of the member's 12557
legislative term, whichever occurs first. 12558

(C) The commission shall annually, during the month of 12559

December, select from among its members a ~~chairman~~ chairperson, a 12560
~~vice-chairman~~ vice-chairperson, who in the absence of the ~~chairman~~ 12561
chairperson shall carry out ~~his~~ the chairperson's duties, and a 12562
secretary, who may be a member or employee of the commission, to 12563
record the minutes of its meetings and to carry out such other 12564
duties as may be assigned by the commission, its ~~chairman~~ 12565
chairperson, or ~~vice-chairman~~ its vice-chairperson. 12566

(D) The director of agriculture, the director of natural 12567
resources, and the director of development, or their designated 12568
representatives, and the two legislators appointed to the 12569
commission, as members of the commission shall serve without 12570
compensation. 12571

(E) Each of the members of the commission appointed by the 12572
governor shall be paid the rate established pursuant to division 12573
(J) of section 124.15 of the Revised Code. All members of the 12574
commission are entitled to their actual and necessary expenses 12575
incurred in the performance of their duties as such members, 12576
payable from the appropriations for the commission. 12577

(F) The commission shall hold at least one regular meeting in 12578
each quarter of each calendar year, and shall keep a record of its 12579
proceedings, which shall be open to the public for inspection. 12580
Special meetings may be called by the ~~chairman~~ chairperson and 12581
shall be called by ~~him~~ the chairperson upon receipt of a written 12582
request therefor signed by two or more members of the commission. 12583
Written notice of the time and place of each meeting shall be sent 12584
to each member of the commission. Six of the voting members of the 12585
commission shall constitute a quorum. 12586

(G) The commission shall employ and prescribe the powers and 12587
duties of a general manager who shall serve in the unclassified 12588
civil service at a salary fixed pursuant to section 124.14 of the 12589
Revised Code. The general manager may employ such assistant 12590
managers as ~~he~~ the general manager and the commission may approve. 12591

At no time shall such assistant managers exceed four in number, 12592
one of whom shall be appointed in the classified civil service. 12593
The general manager may, subject to the approval of the 12594
commission, employ a fiscal officer and such other officers, 12595
employees, and consultants with such powers and duties as are 12596
necessary to carry out ~~sections 991.01 to 991.07 of the Revised~~ 12597
~~Code~~ this chapter. With the approval of the commission and in 12598
order to implement this chapter, the general manager may employ 12599
and fix the compensation of seasonal employees; these employees 12600
shall be in the unclassified civil service, and the overtime pay 12601
requirements of section 124.18 of the Revised Code do not apply to 12602
them. The general manager shall be considered the appointing 12603
authority of the commission for purposes of Chapter 124. of the 12604
Revised Code. 12605

(H) The governor may remove any appointed voting member of 12606
the commission at any time for inefficiency, neglect of duty, or 12607
malfeasance in office. 12608

Sec. 1121.23. Whenever the approval of the superintendent of 12609
financial institutions is required under Chapters 1101. to 1127. 12610
of the Revised Code, or under an order or supervisory action 12611
issued or taken under those chapters, for a person to serve as an 12612
organizer, incorporator, director, executive officer, or 12613
controlling shareholder of a bank, or to otherwise have a 12614
substantial interest in or participate in the management of a 12615
bank, the superintendent shall request the superintendent of the 12616
bureau of criminal identification and investigation, or a vendor 12617
approved by the bureau, to conduct a criminal records check based 12618
on the person's fingerprints in accordance with ~~division (A)(14)~~ 12619
~~of~~ section 109.572 of the Revised Code. The superintendent of 12620
financial institutions shall request that criminal record 12621
information from the federal bureau of investigation be obtained 12622
as part of the criminal records check. Any fee required under 12623

division (C)(3) of section 109.572 of the Revised Code shall be 12624
paid by the person who is the subject of the request. 12625

Sec. 1155.03. Whenever the approval of the superintendent of 12626
financial institutions is required under Chapters 1151. to 1157. 12627
of the Revised Code, or under an order or supervisory action 12628
issued or taken under those chapters, for a person to serve as an 12629
organizer, incorporator, director, executive officer, or 12630
controlling person of a savings and loan association, or to 12631
otherwise have a substantial interest in or participate in the 12632
management of a savings and loan association, the superintendent 12633
shall request the superintendent of the bureau of criminal 12634
identification and investigation, or a vendor approved by the 12635
bureau, to conduct a criminal records check based on the person's 12636
fingerprints in accordance with ~~division (A)(14)~~ of section 12637
109.572 of the Revised Code. The superintendent of financial 12638
institutions shall request that criminal record information from 12639
the federal bureau of investigation be obtained as part of the 12640
criminal records check. Any fee required under division (C)(3) of 12641
section 109.572 of the Revised Code shall be paid by the person 12642
who is the subject of the request. 12643

Sec. 1163.05. Whenever the approval of the superintendent of 12644
financial institutions is required under Chapters 1161. to 1165. 12645
of the Revised Code, or under an order or supervisory action 12646
issued or taken under those chapters, for a person to serve as an 12647
organizer, incorporator, director, executive officer, or 12648
controlling person of a savings bank, or to otherwise have a 12649
substantial interest in or participate in the management of a 12650
savings bank, the superintendent shall request the superintendent 12651
of the bureau of criminal identification and investigation, or a 12652
vendor approved by the bureau, to conduct a criminal records check 12653

based on the person's fingerprints in accordance with ~~division~~ 12654
~~(A)(14)~~ of section 109.572 of the Revised Code. The superintendent 12655
of financial institutions shall request that criminal record 12656
information from the federal bureau of investigation be obtained 12657
as part of the criminal records check. Any fee required under 12658
division (C)(3) of section 109.572 of the Revised Code shall be 12659
paid by the person who is the subject of the request. 12660

Sec. 1315.141. Whenever the approval of the superintendent of 12661
financial institutions is required under sections 1315.01 to 12662
1315.18 of the Revised Code, or under an order or supervisory 12663
action issued or taken under those sections, for a person to serve 12664
as an organizer, incorporator, director, executive officer, or 12665
controlling person of a licensee, or to otherwise have a 12666
substantial interest in or participate in the management of a 12667
licensee, the superintendent shall request the superintendent of 12668
the bureau of criminal identification and investigation, or a 12669
vendor approved by the bureau, to conduct a criminal records check 12670
based on the person's fingerprints in accordance with ~~division~~ 12671
~~(A)(14)~~ of section 109.572 of the Revised Code. The superintendent 12672
of financial institutions shall request that criminal record 12673
information from the federal bureau of investigation be obtained 12674
as part of the criminal records check. Any fee required under 12675
division (C)(3) of section 109.572 of the Revised Code shall be 12676
paid by the person who is the subject of the request. 12677

Sec. 1321.37. (A) Application for an original or renewal 12678
license to make short-term loans shall be in writing, under oath, 12679
and in the form prescribed by the superintendent of financial 12680
institutions, and shall contain the name and address of the 12681
applicant, the location where the business of making loans is to 12682
be conducted, and any further information as the superintendent 12683

requires. At the time of making an application for an original 12684
license, the applicant shall pay to the superintendent a 12685
nonrefundable investigation fee of two hundred dollars. No 12686
investigation fee or any portion thereof shall be refunded after 12687
an original license has been issued. The application for an 12688
original or renewal license shall be accompanied by an original or 12689
renewal license fee, for each business location of one thousand 12690
dollars, except that applications for original licenses issued on 12691
or after the first day of July for any year shall be accompanied 12692
by an original license fee of five hundred dollars, and except 12693
that an application for an original or renewal license, for a 12694
nonprofit corporation that is incorporated under Chapter 1702. of 12695
the Revised Code, shall be accompanied by an original or renewal 12696
license fee, for each business location, that is one-half of the 12697
fee otherwise required. All fees paid to the superintendent 12698
pursuant to this division shall be deposited into the state 12699
treasury to the credit of the consumer finance fund. 12700

(B) Upon the filing of an application for an original license 12701
and, with respect to an application filed for a renewal license, 12702
on a schedule determined by the superintendent by rule adopted 12703
pursuant to section 1321.43 of the Revised Code, and the payment 12704
of fees in accordance with division (A) of this section, the 12705
superintendent shall investigate the facts concerning the 12706
applicant and the requirements provided by this division. The 12707
superintendent shall request the superintendent of the bureau of 12708
criminal identification and investigation, or a vendor approved by 12709
the bureau, to conduct a criminal records check based on the 12710
applicant's fingerprints in accordance with ~~division (A)(12)~~ of 12711
section 109.572 of the Revised Code. Notwithstanding division (K) 12712
of section 121.08 of the Revised Code, the superintendent of 12713
financial institutions shall request that criminal record 12714
information from the federal bureau of investigation be obtained 12715
as part of the criminal records check. The superintendent of 12716

financial institutions shall conduct a civil records check. The 12717
superintendent shall approve an application and issue an original 12718
or renewal license to the applicant if the superintendent finds 12719
all of the following: 12720

(1) The financial responsibility, experience, reputation, and 12721
general fitness of the applicant are such as to warrant the belief 12722
that the business of making loans will be operated lawfully, 12723
honestly, and fairly under sections 1321.35 to 1321.48 of the 12724
Revised Code and within the purposes of those sections; that the 12725
applicant has fully complied with those sections and any rule or 12726
order adopted or issued pursuant to section 1321.43 of the Revised 12727
Code; and that the applicant is qualified to engage in the 12728
business of making loans under sections 1321.35 to 1321.48 of the 12729
Revised Code. 12730

(2) The applicant is financially sound and has a net worth of 12731
not less than one hundred thousand dollars, or in the case of a 12732
nonprofit corporation that is incorporated under Chapter 1702. of 12733
the Revised Code, a net worth of not less than fifty thousand 12734
dollars. The applicant's net worth shall be computed according to 12735
generally accepted accounting principles. 12736

(3) The applicant has never had revoked a license to make 12737
loans under sections 1321.35 to 1321.48 of the Revised Code, under 12738
former sections 1315.35 to 1315.44 of the Revised Code, or to do 12739
business under sections 1315.21 to 1315.30 of the Revised Code. 12740

(4) Neither the applicant nor any senior officer, or partner 12741
of the applicant, has pleaded guilty to or been convicted of any 12742
criminal offense involving theft, receiving stolen property, 12743
embezzlement, forgery, fraud, passing bad checks, money 12744
laundering, or drug trafficking, or any criminal offense involving 12745
money or securities or any violation of an existing or former law 12746
of this state, any other state, or the United States that 12747
substantially is equivalent to a criminal offense described in 12748

that division. However, if the applicant or any of those other persons has pleaded guilty to or been convicted of any such offense other than theft, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the conviction show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will commit such an offense again.

(5) Neither the applicant nor any senior officer, or partner of the applicant, has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or if the applicant or any of those other persons has been subject to such a judgment, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the judgment show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will be subject to such a judgment again.

(C) If the superintendent finds that the applicant does not meet the requirements of division (B) of this section, or the superintendent finds that the applicant knowingly or repeatedly contracts with or employs persons to directly engage in lending activities who have been convicted of a felony crime listed in division (B)(5) of this section, the superintendent shall issue an order denying the application for an original or renewal license and giving the applicant an opportunity for a hearing on the denial in accordance with Chapter 119. of the Revised Code. The superintendent shall notify the applicant of the denial, the

grounds for the denial, and the applicant's opportunity for a 12781
hearing. If the application is denied, the superintendent shall 12782
return the annual license fee but shall retain the investigation 12783
fee. 12784

(D) No person licensed under sections 1321.35 to 1321.48 of 12785
the Revised Code shall conduct business in this state unless the 12786
licensee has obtained and maintains in effect at all times a 12787
corporate surety bond issued by a bonding company or insurance 12788
company authorized to do business in this state. The bond shall be 12789
in favor of the superintendent and in the penal sum of at least 12790
one hundred thousand dollars, or in the case of a nonprofit 12791
corporation that is incorporated under Chapter 1702. of the 12792
Revised Code, in the amount of fifty thousand dollars. The term of 12793
the bond shall coincide with the term of the license. The licensee 12794
shall file a copy of the bond with the superintendent. The bond 12795
shall be for the exclusive benefit of any borrower injured by a 12796
violation by a licensee or any employee of a licensee, of any 12797
provision of sections 1321.35 to 1321.48 of the Revised Code. 12798

Sec. 1321.53. (A)(1) An application for a certificate of 12799
registration under sections 1321.51 to 1321.60 of the Revised Code 12800
shall contain an undertaking by the applicant to abide by those 12801
sections. The application shall be in writing, under oath, and in 12802
the form prescribed by the division of financial institutions, and 12803
shall contain any information that the division may require. 12804
Applicants that are foreign corporations shall obtain and maintain 12805
a license pursuant to Chapter 1703. of the Revised Code before a 12806
certificate is issued or renewed. 12807

(2) Upon the filing of the application and the payment by the 12808
applicant of a nonrefundable two_hundred_dollar investigation fee, 12809
a nonrefundable three_hundred_dollar annual registration fee, and 12810
any additional fee required by the nationwide mortgage licensing 12811

system and registry, the division shall investigate the relevant 12812
facts. If the application involves investigation outside this 12813
state, the applicant may be required by the division to advance 12814
sufficient funds to pay any of the actual expenses of such 12815
investigation, when it appears that these expenses will exceed two 12816
hundred dollars. An itemized statement of any of these expenses 12817
which the applicant is required to pay shall be furnished to the 12818
applicant by the division. No certificate shall be issued unless 12819
all the required fees have been submitted to the division. 12820

(3) All applicants making loans secured by an interest in 12821
real estate shall designate an employee or owner of the applicant 12822
as the applicant's primary point of contact. While acting as the 12823
primary point of contact, the employee or owner shall not be 12824
employed by any other registrant or mortgage broker. 12825

(4) The investigation undertaken upon application shall 12826
include both a civil and criminal records check of the applicant 12827
including any individual whose identity is required to be 12828
disclosed in the application. Where the applicant is a business 12829
entity the superintendent shall have the authority to require a 12830
civil and criminal background check of those persons that in the 12831
determination of the superintendent have the authority to direct 12832
and control the operations of the applicant. 12833

(5)(a) Notwithstanding division (K) of section 121.08 of the 12834
Revised Code, the superintendent of financial institutions shall 12835
obtain a criminal history records check and, as part of that 12836
records check, request that criminal record information from the 12837
federal bureau of investigation be obtained. To fulfill this 12838
requirement, the superintendent shall do either of the following: 12839

(i) Request the superintendent of the bureau of criminal 12840
identification and investigation, or a vendor approved by the 12841
bureau, to conduct a criminal records check based on the 12842
applicant's fingerprints or, if the fingerprints are unreadable, 12843

based on the applicant's social security number, in accordance 12844
with ~~division (A)(12)~~ of section 109.572 of the Revised Code; 12845

(ii) Authorize the nationwide mortgage licensing system and 12846
registry to request a criminal history background check as set 12847
forth in division (C) of section 1321.531 of the Revised Code. 12848

(b) Any fee required under division (C)(3) of section 109.572 12849
of the Revised Code or by the nationwide mortgage licensing system 12850
and registry shall be paid by the applicant. 12851

(6) If an application for a certificate of registration does 12852
not contain all of the information required under division (A) of 12853
this section, and if such information is not submitted to the 12854
division or to the nationwide mortgage licensing system and 12855
registry within ninety days after the superintendent or the 12856
nationwide mortgage licensing system and registry requests the 12857
information in writing, including by electronic transmission or 12858
facsimile, the superintendent may consider the application 12859
withdrawn. 12860

(7) If the division finds that the financial responsibility, 12861
experience, character, and general fitness of the applicant 12862
command the confidence of the public and warrant the belief that 12863
the business will be operated honestly and fairly in compliance 12864
with the purposes of sections 1321.51 to 1321.60 of the Revised 12865
Code and the rules adopted thereunder, and that the applicant has 12866
the requisite bond or applicable net worth and assets required by 12867
division (B) of this section, the division shall thereupon issue a 12868
certificate of registration to the applicant. The superintendent 12869
shall not use a credit score as the sole basis for a registration 12870
denial. 12871

(a)(i) Certificates of registration issued on or after July 12872
1, 2010, shall annually expire on the thirty-first day of 12873
December, unless renewed by the filing of a renewal application 12874

and payment of a three_hundred_dollar nonrefundable annual 12875
registration fee, any assessment as determined by the 12876
superintendent pursuant to division (A)(7)(a)(ii) of this section, 12877
and any additional fee required by the nationwide mortgage 12878
licensing system and registry, on or before the last day of 12879
December of each year. No other fee or assessment shall be 12880
required of a registrant by the state or any political subdivision 12881
of this state. 12882

(ii) If the renewal fees billed by the superintendent 12883
pursuant to division (A)(7)(a)(i) of this section are less than 12884
the estimated expenditures of the consumer finance section of the 12885
division of financial institutions, as determined by the 12886
superintendent, for the following fiscal year, the superintendent 12887
may assess each registrant at a rate sufficient to equal in the 12888
aggregate the difference between the renewal fees billed and the 12889
estimated expenditures. Each registrant shall pay the assessed 12890
amount to the superintendent prior to the last day of June. In no 12891
case shall the assessment exceed ten cents per each one hundred 12892
dollars of interest (excluding charge-off recoveries), points, 12893
loan origination charges, and credit line charges collected by 12894
that registrant during the previous calendar year. If such an 12895
assessment is imposed, it shall not be less than two hundred fifty 12896
dollars per registrant and shall not exceed thirty thousand 12897
dollars less the total renewal fees paid pursuant to division 12898
(A)(7)(a)(i) of this section by each registrant. 12899

(b) Registrants shall timely file renewal applications on 12900
forms prescribed by the division and provide any further 12901
information that the division may require. If a renewal 12902
application does not contain all of the information required under 12903
this section, and if that information is not submitted to the 12904
division or to the nationwide mortgage licensing system and 12905
registry within ninety days after the superintendent or the 12906

nationwide mortgage licensing system and registry requests the 12907
information in writing, including by electronic transmission or 12908
facsimile, the superintendent may consider the application 12909
withdrawn. 12910

(c) Renewal shall not be granted if the applicant's 12911
certificate of registration is subject to an order of suspension, 12912
revocation, or an unpaid and past due fine imposed by the 12913
superintendent. 12914

(d) If the division finds the applicant does not meet the 12915
conditions set forth in this section, it shall issue a notice of 12916
intent to deny the application, and forthwith notify the applicant 12917
of the denial, the grounds for the denial, and the applicant's 12918
reasonable opportunity to be heard on the action in accordance 12919
with Chapter 119. of the Revised Code. 12920

(8) If there is a change of five per cent or more in the 12921
ownership of a registrant, the division may make any investigation 12922
necessary to determine whether any fact or condition exists that, 12923
if it had existed at the time of the original application for a 12924
certificate of registration, the fact or condition would have 12925
warranted the division to deny the application under division 12926
(A)(7) of this section. If such a fact or condition is found, the 12927
division may, in accordance with Chapter 119. of the Revised Code, 12928
revoke the registrant's certificate. 12929

(B) Each registrant that engages in lending under sections 12930
1321.51 to 1321.60 of the Revised Code shall, if not otherwise 12931
required to be bonded pursuant to section 1321.533 of the Revised 12932
Code, maintain both of the following: 12933

(1) A net worth of at least fifty thousand dollars; 12934

(2) For each certificate of registration, assets of at least 12935
fifty thousand dollars either in use or readily available for use 12936
in the conduct of the business. 12937

(C) Not more than one place of business shall be maintained 12938
under the same certificate, but the division may issue additional 12939
certificates to the same registrant upon compliance with sections 12940
1321.51 to 1321.60 of the Revised Code, governing the issuance of 12941
a single certificate. No change in the place of business of a 12942
registrant to a location outside the original municipal 12943
corporation shall be permitted under the same certificate without 12944
the approval of a new application, the payment of the registration 12945
fee and, if required by the superintendent, the payment of an 12946
investigation fee of two hundred dollars. When a registrant wishes 12947
to change its place of business within the same municipal 12948
corporation, it shall give written notice of the change in advance 12949
to the division, which shall provide a certificate for the new 12950
address without cost. If a registrant changes its name, prior to 12951
making loans under the new name it shall give written notice of 12952
the change to the division, which shall provide a certificate in 12953
the new name without cost. Sections 1321.51 to 1321.60 of the 12954
Revised Code do not limit the loans of any registrant to residents 12955
of the community in which the registrant's place of business is 12956
situated. Each certificate shall be kept conspicuously posted in 12957
the place of business of the registrant and is not transferable or 12958
assignable. 12959

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 12960
apply to any of the following: 12961

(1) Entities chartered and lawfully doing business under the 12962
authority of any law of this state, another state, or the United 12963
States as a bank, savings bank, trust company, savings and loan 12964
association, or credit union, or a subsidiary of any such entity, 12965
which subsidiary is regulated by a federal banking agency and is 12966
owned and controlled by such a depository institution; 12967

(2) Life, property, or casualty insurance companies licensed 12968
to do business in this state; 12969

(3) Any person that is a lender making a loan pursuant to sections 1321.01 to 1321.19 of the Revised Code or a business loan as described in division (B)(6) of section 1343.01 of the Revised Code; 12970
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(4) Any political subdivision, or any governmental or other public entity, corporation, instrumentality, or agency, in or of the United States or any state of the United States, or any entity described in division (B)(3) of section 1343.01 of the Revised Code; 12974
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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; 12979
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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. 12982
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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. 12987
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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. 12991
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(B) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and 12998
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registry, or any entities designated by it, to collect and 13000
maintain records and process transaction fees or other fees 13001
related to mortgage loan originator licensees or other persons 13002
subject to or involved in their licensure. 13003

(C) In connection with applying for a mortgage loan 13004
originator license, the applicant shall furnish to the nationwide 13005
mortgage licensing system and registry the following information 13006
concerning the applicant's identity: 13007

(1) The applicant's fingerprints for submission to the 13008
federal bureau of investigation, and any other governmental agency 13009
or entity authorized to receive such information, for purposes of 13010
a state, national, and international criminal history background 13011
check; 13012

(2) Personal history and experience in a form prescribed by 13013
the nationwide mortgage licensing system and registry, along with 13014
authorization for the superintendent and the nationwide mortgage 13015
licensing system and registry to obtain the following: 13016

(a) An independent credit report from a consumer reporting 13017
agency; 13018

(b) Information related to any administrative, civil, or 13019
criminal findings by any governmental jurisdiction. 13020

(D) In order to effectuate the purposes of divisions (C)(1) 13021
and (C)(2)(b) of this section, the superintendent may use the 13022
conference of state bank supervisors, or a wholly owned 13023
subsidiary, as a channeling agent for requesting information from 13024
and distributing information to the United States department of 13025
justice or any other governmental agency. The superintendent may 13026
also use the nationwide mortgage licensing system and registry as 13027
a channeling agent for requesting information from and 13028
distributing information to any source related to matters subject 13029
to divisions (C)(2)(a) and (b) of this section. 13030

(E) Upon the filing of the application, payment of the application fee, and payment of any additional fee, including any fee required by the nationwide mortgage licensing system and registry, the superintendent shall investigate the applicant as set forth in division (E) 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 that 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 as set forth in division (C) of this section.

(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 of financial institutions 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 dollars. The superintendent shall provide the applicant

with an itemized statement of the actual expenses that the 13062
applicant is required to pay. 13063

(F) If an application for a mortgage loan originator license 13064
does not contain all of the information required under this 13065
section, and if that information is not submitted to the 13066
superintendent or to the nationwide mortgage licensing system and 13067
registry within ninety days after the superintendent or the 13068
nationwide mortgage licensing system and registry requests the 13069
information in writing, including by electronic transmission or 13070
facsimile, the superintendent may consider the application 13071
withdrawn. 13072

Sec. 1322.03. (A) An application for a certificate of 13073
registration as a mortgage broker shall be in writing, under oath, 13074
and in the form prescribed by the superintendent of financial 13075
institutions. The application shall be accompanied by a 13076
nonrefundable application fee of five hundred dollars for each 13077
location of an office to be maintained by the applicant in 13078
accordance with division (A) of section 1322.02 of the Revised 13079
Code and any additional fee required by the nationwide mortgage 13080
licensing system and registry. The application shall provide all 13081
of the following: 13082

(1) The location or locations where the business is to be 13083
transacted and whether any location is a residence. If any 13084
location where the business is to be transacted is a residence, 13085
the superintendent may require that the application be accompanied 13086
by a copy of a zoning permit authorizing the use of the residence 13087
for commercial purposes, or by a written opinion or other document 13088
issued by the county or political subdivision where the residence 13089
is located certifying that the use of the residence to transact 13090
business as a mortgage broker is not prohibited by the county or 13091
political subdivision. 13092

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| (2)(a) In the case of a sole proprietor, the name and address of the sole proprietor; | 13093 13094 |
| (b) In the case of a partnership, the name and address of each partner; | 13095 13096 |
| (c) In the case of a corporation, the name and address of each shareholder owning five per cent or more of the corporation; | 13097 13098 |
| (d) In the case of any other entity, the name and address of any person that owns five per cent or more of the entity that will transact business as a mortgage broker. | 13099 13100 13101 |
| (3) Each applicant shall designate an employee or owner of the applicant as the applicant's operations manager. While acting as the operations manager, the employee or owner shall be licensed as a loan originator under sections 1322.01 to 1322.12 of the Revised Code and shall not be employed by any other mortgage broker. | 13102 13103 13104 13105 13106 13107 |
| (4) Evidence that the person designated on the application pursuant to division (A)(3) of this section possesses at least three years of experience in the residential mortgage and lending field, which experience may include employment with or as a mortgage broker or with a depository institution, mortgage lending institution, or other lending institution, or possesses at least three years of other experience related specifically to the business of residential mortgage loans that the superintendent determines meets the requirements of division (A)(4) of this section; | 13108 13109 13110 13111 13112 13113 13114 13115 13116 13117 |
| (5) Evidence that the person designated on the application pursuant to division (A)(3) of this section has successfully completed the pre-licensing instruction requirements set forth in section 1322.031 of the Revised Code; | 13118 13119 13120 13121 |
| (6) Evidence of compliance with the surety bond requirements of section 1322.05 of the Revised Code and with sections 1322.01 | 13122 13123 |

to 1322.12 of the Revised Code; 13124

(7) In the case of a foreign business entity, evidence that 13125
it maintains a license or registration pursuant to Chapter 1703., 13126
1705., 1775., 1776., 1777., 1782., or 1783. of the Revised Code to 13127
transact business in this state; 13128

(8) Evidence that the applicant's operations manager has 13129
successfully completed the written test required under division 13130
(A) of section 1322.051 of the Revised Code; 13131

(9) Any further information that the superintendent requires. 13132

(B) Upon the filing of the application and payment of the 13133
nonrefundable application fee and any fee required by the 13134
nationwide mortgage licensing system and registry, the 13135
superintendent of financial institutions shall investigate the 13136
applicant, and any individual whose identity is required to be 13137
disclosed in the application, as set forth in division (B) of this 13138
section. 13139

(1)(a) Notwithstanding division (K) of section 121.08 of the 13140
Revised Code, the superintendent shall obtain a criminal history 13141
records check and, as part of that records check, request that 13142
criminal record information from the federal bureau of 13143
investigation be obtained. To fulfill this requirement, the 13144
superintendent shall do either of the following: 13145

(i) Request the superintendent of the bureau of criminal 13146
identification and investigation, or a vendor approved by the 13147
bureau, to conduct a criminal records check based on the 13148
applicant's fingerprints or, if the fingerprints are unreadable, 13149
based on the applicant's social security number, in accordance 13150
with ~~division (A)(12) of~~ section 109.572 of the Revised Code; 13151

(ii) Authorize the nationwide mortgage licensing system and 13152
registry to request a criminal history background check. 13153

(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 certificate of registration 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 five hundred dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(C) The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section 1322.04 of the Revised Code to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

(D) If an application for a mortgage broker certificate of registration does not contain all of the information required under division (A) of this section, and if that information is not submitted to the superintendent or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

(E) A mortgage broker certificate of registration and the authority granted under that certificate is not transferable or assignable and cannot be franchised by contract or any other means.

(F) The registration requirements of this chapter apply to 13185
any person acting as a mortgage broker, and no person is exempt 13186
from the requirements of this chapter on the basis of prior work 13187
or employment as a mortgage broker. 13188

(G) The superintendent may establish relationships or enter 13189
into contracts with the nationwide mortgage licensing system and 13190
registry, or any entities designated by it, to collect and 13191
maintain records and process transaction fees or other fees 13192
related to mortgage broker certificates of registration or the 13193
persons associated with a mortgage broker. 13194

Sec. 1322.031. (A) An application for a license as a loan 13195
originator shall be in writing, under oath, and in the form 13196
prescribed by the superintendent of financial institutions. The 13197
application shall be accompanied by a nonrefundable application 13198
fee of one hundred fifty dollars and any additional fee required 13199
by the nationwide mortgage licensing system and registry. 13200

(B)(1) The application shall provide evidence, acceptable to 13201
the superintendent, that the applicant has successfully completed 13202
at least twenty-four hours of pre-licensing instruction consisting 13203
of all of the following: 13204

(a) Twenty hours of instruction in a course or program of 13205
study reviewed and approved by the nationwide mortgage licensing 13206
system and registry; 13207

(b) Four hours of instruction in a course or program of study 13208
reviewed and approved by the superintendent concerning state 13209
lending laws and the Ohio consumer sales practices act, Chapter 13210
1345. of the Revised Code, as it applies to registrants and 13211
licensees. 13212

(2) Notwithstanding division (B)(1) of this section, until 13213
the nationwide mortgage licensing system and registry implements a 13214

review and approval program, the application shall provide 13215
evidence, as determined by the superintendent, that the applicant 13216
has successfully completed at least twenty-four hours of 13217
instruction in a course or program of study approved by the 13218
superintendent that consists of at least all of the following: 13219

(a) Four hours of instruction concerning state and federal 13220
mortgage lending laws, which shall include no less than two hours 13221
on this chapter; 13222

(b) Four hours of instruction concerning the Ohio consumer 13223
sales practices act, Chapter 1345. of the Revised Code, as it 13224
applies to registrants and licensees; 13225

(c) Four hours of instruction concerning the loan application 13226
process; 13227

(d) Two hours of instruction concerning the underwriting 13228
process; 13229

(e) Two hours of instruction concerning the secondary market 13230
for mortgage loans; 13231

(f) Four hours of instruction concerning the loan closing 13232
process; 13233

(g) Two hours of instruction covering basic mortgage 13234
financing concepts and terms; 13235

(h) Two hours of instruction concerning the ethical 13236
responsibilities of a registrant and a licensee, including with 13237
respect to confidentiality, consumer counseling, and the duties 13238
and standards of care created in section 1322.081 of the Revised 13239
Code. 13240

(3) For purposes of division (B)(1)(a) of this section, the 13241
review and approval of a course or program of study includes the 13242
review and approval of the provider of the course or program of 13243
study. 13244

(4) If an applicant held a valid loan originator license 13245
issued by this state at any time during the immediately preceding 13246
five-year period, the applicant shall not be required to complete 13247
any additional pre-licensing instruction. For this purpose, any 13248
time during which the individual is a registered loan originator 13249
shall not be taken into account. 13250

(5) A person having successfully completed the pre-licensing 13251
education requirement reviewed and approved by the nationwide 13252
mortgage licensing system and registry for any state within the 13253
previous five years shall be granted credit toward completion of 13254
the pre-licensing education requirement of this state. 13255

(C) In addition to the information required under division 13256
(B) of this section, the application shall provide both of the 13257
following: 13258

(1) Evidence that the applicant passed a written test that 13259
meets the requirements described in division (B) of section 13260
1322.051 of the Revised Code; 13261

(2) Any further information that the superintendent requires. 13262

(D) Upon the filing of the application and payment of the 13263
application fee and any fee required by the nationwide mortgage 13264
licensing system and registry, the superintendent of financial 13265
institutions shall investigate the applicant as set forth in 13266
division (D) of this section. 13267

(1)(a) Notwithstanding division (K) of section 121.08 of the 13268
Revised Code, the superintendent shall obtain a criminal history 13269
records check and, as part of the records check, request that 13270
criminal record information from the federal bureau of 13271
investigation be obtained. To fulfill this requirement, the 13272
superintendent shall do either of the following: 13273

(i) Request the superintendent of the bureau of criminal 13274
identification and investigation, or a vendor approved by the 13275

bureau, to conduct a criminal records check based on the 13276
applicant's fingerprints or, if the fingerprints are unreadable, 13277
based on the applicant's social security number, in accordance 13278
with ~~division (A)(12)~~ of section 109.572 of the Revised Code; 13279

(ii) Authorize the nationwide mortgage licensing system and 13280
registry to request a criminal history background check. 13281

(b) Any fee required under division (C)(3) of section 109.572 13282
of the Revised Code or by the nationwide mortgage licensing system 13283
and registry shall be paid by the applicant. 13284

(2) The superintendent shall conduct a civil records check. 13285

(3) If, in order to issue a license to an applicant, 13286
additional investigation by the superintendent outside this state 13287
is necessary, the superintendent may require the applicant to 13288
advance sufficient funds to pay the actual expenses of the 13289
investigation, if it appears that these expenses will exceed one 13290
hundred fifty dollars. The superintendent shall provide the 13291
applicant with an itemized statement of the actual expenses that 13292
the applicant is required to pay. 13293

(E)(1) In connection with applying for a loan originator 13294
license, the applicant shall furnish to the nationwide mortgage 13295
licensing system and registry the following information concerning 13296
the applicant's identity: 13297

(a) The applicant's fingerprints for submission to the 13298
federal bureau of investigation, and any other governmental agency 13299
or entity authorized to receive such information, for purposes of 13300
a state, national, and international criminal history background 13301
check; 13302

(b) Personal history and experience in a form prescribed by 13303
the nationwide mortgage licensing system and registry, along with 13304
authorization for the superintendent and the nationwide mortgage 13305
licensing system and registry to obtain the following: 13306

| | |
|--|--|
| (i) An independent credit report from a consumer reporting agency; | 13307 13308 |
| (ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction. | 13309 13310 |
| (2) In order to effectuate the purposes of divisions (E)(1)(a) and (E)(1)(b)(ii) of this section, the superintendent may use the conference of state bank supervisors, or a wholly owned subsidiary, as a channeling agent for requesting information from and distributing information to the United States department of justice or any other governmental agency. The superintendent may also use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to any source related to matters subject to those divisions of this section. | 13311 13312 13313 13314 13315 13316 13317 13318 13319 13320 |
| (F) The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section 1322.041 of the Revised Code to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code. | 13321 13322 13323 13324 13325 13326 |
| (G) If an application for a loan originator license does not contain all of the information required under this section, and if that information is not submitted to the superintendent or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn. | 13327 13328 13329 13330 13331 13332 13333 13334 |
| (H)(1) The business of a loan originator shall principally be transacted at an office of the mortgage broker with whom the licensee is employed or associated, which office is registered in | 13335 13336 13337 |

accordance with division (A) of section 1322.02 of the Revised Code. Each original loan originator license shall be deposited with and maintained by the mortgage broker at the mortgage broker's main office. A copy of the license shall be maintained and displayed at the office where the loan originator principally transacts business.

(2) If a loan originator's employment or association is terminated for any reason, the mortgage broker shall return the original loan originator license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to another mortgage broker by submitting a transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. Any licensee whose license is held in escrow shall cease activity as a loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

(3) A mortgage broker may employ or be associated with a loan originator on a temporary basis pending the transfer of the loan originator's license to the mortgage broker, if the mortgage broker receives written confirmation from the superintendent that the loan originator is licensed under sections 1322.01 to 1322.12 of the Revised Code.

(4) Notwithstanding divisions (H)(1) to (3) of this section, if a licensee is employed by or associated with a person or entity listed in division (G)(2) of section 1322.01 of the Revised Code, all of the following apply:

(a) The licensee shall maintain and display the original loan originator license at the office where the licensee principally transacts business;

(b) If the loan originator's employment or association is terminated, the loan originator shall return the original loan originator license to the superintendent within five business days after termination. The licensee may request the transfer of the license to a mortgage broker or another person or entity listed in division (G)(2) of section 1322.01 of the Revised Code by submitting a transfer application, along with a fifteen-dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

(c) The licensee may seek to be employed or associated with a mortgage broker or person or entity listed in division (G)(2) of section 1322.01 of the Revised Code if the mortgage broker or person or entity receives written confirmation from the superintendent that the loan originator is licensed under sections 1322.01 to 1322.12 of the Revised Code.

(I) 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 loan originator licenses or the persons associated with a licensee.

(J) A loan originator license, or the authority granted under that license, is not assignable and cannot be franchised by contract or any other means.

Sec. 1345.05. (A) The attorney general shall:

(1) Adopt, amend, and repeal procedural rules;

(2) Adopt as a rule a description of the organization of the attorney general's office, stating the general courses and methods of operation of the section of the office of the attorney general, which is to administer Chapter 1345. of the Revised Code and methods whereby the public may obtain information or make submissions or requests, including a description of all forms and instructions used by that office;

(3) Make available for public inspection all rules and all other written statements of policy or interpretations adopted or used by the attorney general in the discharge of the attorney general's functions, together with all judgments, including supporting opinions, by courts of this state that determine the rights of the parties and concerning which appellate remedies have been exhausted, or lost by the expiration of the time for appeal, determining that specific acts or practices violate section 1345.02, 1345.03, or 1345.031 of the Revised Code;

(4) Inform consumers and suppliers on a continuing basis of acts or practices that violate Chapter 1345. of the Revised Code by, among other things, publishing an informational document describing acts and practices in connection with residential mortgages that are unfair, deceptive, or unconscionable, and by making that information available on the attorney general's official web site;

(5) Cooperate with state and local officials, officials of other states, and officials of the federal government in the administration of comparable statutes;

(6) Report annually on or before the ~~first~~ thirty-first day of January to the governor and the general assembly on the operations of the attorney general in respect to Chapter 1345. of the Revised Code, and on the acts or practices occurring in this state that violate such chapter. The report shall include a statement of investigatory and enforcement procedures and

policies, of the number of investigations and enforcement 13433
proceedings instituted and of their disposition, and of other 13434
activities of the state and of other persons to promote the 13435
purposes of Chapter 1345. of the Revised Code. 13436

(7) In carrying out official duties, the attorney general 13437
shall not disclose publicly the identity of suppliers investigated 13438
or the facts developed in investigations unless these matters have 13439
become a matter of public record in enforcement proceedings, in 13440
public hearings conducted pursuant to division (B)(1) of this 13441
section, or the suppliers investigated have consented in writing 13442
to public disclosure. 13443

(B) The attorney general may: 13444

(1) Conduct research, make inquiries, hold public hearings, 13445
and publish studies relating to consumer transactions; 13446

(2) Adopt, amend, and repeal substantive rules defining with 13447
reasonable specificity acts or practices that violate sections 13448
1345.02, 1345.03, and 1345.031 of the Revised Code. In adopting, 13449
amending, or repealing substantive rules defining acts or 13450
practices that violate section 1345.02 of the Revised Code, due 13451
consideration and great weight shall be given to federal trade 13452
commission orders, trade regulation rules and guides, and the 13453
federal courts' interpretations of subsection 45(a)(1) of the 13454
"Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 13455
41, as amended. 13456

In adopting, amending, or repealing such rules concerning a 13457
consumer transaction in connection with a residential mortgage, 13458
the attorney general shall consult with the superintendent of 13459
financial institutions and shall give due consideration to state 13460
and federal statutes, regulations, administrative agency 13461
interpretations, and case law. 13462

(C) In the conduct of public hearings authorized by this 13463

section, the attorney general may administer oaths, subpoena 13464
witnesses, adduce evidence, and require the production of relevant 13465
material. Upon failure of a person without lawful excuse to obey a 13466
subpoena or to produce relevant matter, the attorney general may 13467
apply to a court of common pleas for an order compelling 13468
compliance. 13469

(D) The attorney general may request that an individual who 13470
refuses to testify or to produce relevant material on the ground 13471
that the testimony or matter may incriminate the individual be 13472
ordered by the court to provide the testimony or matter. With the 13473
exception of a prosecution for perjury and an action for damages 13474
under section 1345.07 or 1345.09 of the Revised Code, an 13475
individual who complies with a court order to provide testimony or 13476
matter, after asserting a privilege against self incrimination to 13477
which the individual is entitled by law, shall not be subjected to 13478
a criminal proceeding on the basis of the testimony or matter 13479
discovered through that testimony or matter. 13480

(E) Any person may petition the attorney general requesting 13481
the adoption, amendment, or repeal of a rule. The attorney general 13482
shall prescribe by rule the form for such petitions and the 13483
procedure for their submission, consideration, and disposition. 13484
Within sixty days of submission of a petition, the attorney 13485
general shall either deny the petition in writing, stating the 13486
reasons for the denial, or initiate rule-making proceedings. There 13487
is no right to appeal from such denial of a petition. 13488

(F) All rules shall be adopted subject to Chapter 119. of the 13489
Revised Code. 13490

(G) The informational document published in accordance with 13491
division (A)(4) of this section shall be made available for 13492
distribution to consumers who are applying for a mortgage loan. An 13493
acknowledgement of receipt shall be retained by the lender, 13494
mortgage broker, and loan officer, as applicable, subject to 13495

review by the attorney general and the department of commerce. 13496

Sec. 1501.04. There is hereby created in the department of 13497
natural resources a recreation and resources commission composed 13498
of the chairperson of the wildlife council created under section 13499
1531.03 of the Revised Code, the chairperson of the parks and 13500
recreation council created under section 1541.40 of the Revised 13501
Code, the chairperson of the waterways safety council created 13502
under section 1547.73 of the Revised Code, the chairperson of the 13503
technical advisory council on oil and gas created under section 13504
1509.38 of the Revised Code, the chairperson of the forestry 13505
advisory council created under section 1503.40 of the Revised 13506
Code, the chairperson of the Ohio soil and water conservation 13507
commission created under section 1515.02 of the Revised Code, the 13508
chairperson of the Ohio natural areas council created under 13509
section 1517.03 of the Revised Code, the chairperson of the Ohio 13510
water advisory council created under section 1521.031 of the 13511
Revised Code, ~~the chairperson of the recycling and litter~~ 13512
~~prevention advisory council created under section 1502.04 of the~~ 13513
~~Revised Code,~~ the chairperson of the Ohio geology advisory council 13514
created under section 1505.11 of the Revised Code, and five 13515
members appointed by the governor with the advice and consent of 13516
the senate, not more than three of whom shall belong to the same 13517
political party. The director of natural resources shall be an ex 13518
officio member of the commission, with a voice in its 13519
deliberations, but without the power to vote. 13520

Terms of office of members of the commission appointed by the 13521
governor shall be for five years, commencing on the second day of 13522
February and ending on the first day of February. Each member 13523
shall hold office from the date of appointment until the end of 13524
the term for which the member was appointed. 13525

In the event of the death, removal, resignation, or 13526

incapacity of a member of the commission, the governor, with the 13527
advice and consent of the senate, shall appoint a successor who 13528
shall hold office for the remainder of the term for which the 13529
member's predecessor was appointed. Any member shall continue in 13530
office subsequent to the expiration date of the member's term 13531
until the member's successor takes office, or until a period of 13532
sixty days has elapsed, whichever occurs first. 13533

The governor may remove any appointed member of the 13534
commission for misfeasance, nonfeasance, or malfeasance in office. 13535

The commission shall exercise no administrative function, but 13536
may do any of the following: 13537

(A) Advise with and recommend to the director as to plans and 13538
programs for the management, development, utilization, and 13539
conservation of the natural resources of the state; 13540

(B) Advise with and recommend to the director as to methods 13541
of coordinating the work of the divisions of the department; 13542

(C) Consider and make recommendations upon any matter that 13543
the director may submit to it; 13544

(D) Submit to the governor biennially recommendations for 13545
amendments to the conservation laws of the state. 13546

Each member of the commission, before entering upon the 13547
discharge of the member's duties, shall take and subscribe to an 13548
oath of office, which oath, in writing, shall be filed in the 13549
office of the secretary of state. 13550

The members of the commission shall serve without 13551
compensation, but shall be entitled to receive their actual and 13552
necessary expenses incurred in the performance of their official 13553
duties. 13554

The commission, by a majority vote of all its members, shall 13555
adopt and amend bylaws. 13556

To be eligible for appointment, a person shall be a citizen 13557
of the United States and an elector of the state and shall possess 13558
a knowledge of and have an interest in the natural resources of 13559
this state. 13560

The commission shall hold at least four regular quarterly 13561
meetings each year. Special meetings shall be held at such times 13562
as the bylaws of the commission provide. Notices of all meetings 13563
shall be given in such manner as the bylaws provide. The 13564
commission shall choose annually from among its members a 13565
chairperson to preside over its meetings and a secretary to keep a 13566
record of its proceedings. A majority of the members of the 13567
commission constitutes a quorum. No advice shall be given or 13568
recommendation made without a majority of the members of the 13569
commission concurring in it. 13570

Sec. 1503.012. There is hereby created in the state treasury 13571
the forestry mineral royalties fund. The fund shall consist of 13572
money deposited into it under section 1509.73 of the Revised Code. 13573
Any investment proceeds earned on money in the fund shall be 13574
credited to the fund. 13575

Money in the fund shall be used by the division of forestry 13576
to acquire land and to pay capital costs, including equipment and 13577
repairs and renovations of facilities, that are owned by the state 13578
and administered by the division. Expenditures from the fund for 13579
those purposes shall be approved by the director of natural 13580
resources. 13581

The director of natural resources also may request the 13582
director of budget and management to transfer money from the 13583
forestry mineral royalties fund to the parks mineral royalties 13584
fund created in section 1541.26 of the Revised Code. The director 13585
of budget and management shall transfer the money pursuant to the 13586
request if the director consents to the request. Money that is 13587

transferred to the parks mineral royalties fund shall be used for 13588
the purposes specified in section 1541.26 of the Revised Code. 13589

Sec. 1503.43. (A) As used in this section: 13590

(1) "Wilderness area" means a contiguous area of relatively 13591
undeveloped state-owned land administered by the division of 13592
forestry and consisting of not less than five thousand acres or of 13593
sufficient size as to make practicable its preservation and use in 13594
an unimpaired condition that either has retained its natural 13595
character and influence or has been substantially restored to a 13596
near natural appearance and that meets both of the following 13597
qualifications: 13598

(a) The area is one in which humankind's past influences are 13599
largely unnoticed; 13600

(b) The area has outstanding opportunities for solitude or 13601
for a primitive and unconfined type of recreation. 13602

(2) "Utility facility" includes, without limitation, towers, 13603
poles, pipes, sewers, tubing, conduits, conductors, cables, 13604
valves, lines, wires, manholes, and appurtenances thereto owned by 13605
a utility facility operator. 13606

(3) "Utility facility operator" means a person or public 13607
authority that supplies any of the following materials or services 13608
by means of a utility facility: 13609

(a) Flammable, toxic, or corrosive gas; 13610

(b) Crude oil, petroleum products, or hazardous liquids; 13611

(c) Coal; 13612

(d) Electricity; 13613

(e) Electronic, telephonic, or telegraphic communications; 13614

(f) Television signals; 13615

| | |
|--|-------|
| (g) Sewage disposal or drainage; | 13616 |
| (h) Potable water; | 13617 |
| (i) Steam or hot water. | 13618 |
| (B) That portion of contiguous state lands located in Scioto | 13619 |
| and Adams counties and within the Shawnee state forest and bounded | 13620 |
| by forest road seventeen and sunshine ridge to the north, by upper | 13621 |
| Twin Creek road to the east and northeast, by United States route | 13622 |
| fifty-two to the south, and by lower Twin Creek road to the west | 13623 |
| and southwest is hereby designated the Shawnee wilderness area. | 13624 |
| Except as otherwise specifically provided by this section or by | 13625 |
| rule adopted under this chapter, the provisions of this chapter | 13626 |
| apply to the Shawnee wilderness area, and that area shall continue | 13627 |
| to be a part of the Shawnee state forest. | 13628 |
| (C) The Shawnee wilderness area shall be managed to preserve | 13629 |
| natural conditions and ensure the continuance of natural | 13630 |
| processes. The chief of the division of forestry, with the | 13631 |
| approval of the director of natural resources, shall administer | 13632 |
| the Shawnee wilderness area in accordance with a management plan, | 13633 |
| which the chief shall develop and adopt within one year after | 13634 |
| September 14, 1988. Sixty days prior to adopting a plan, the chief | 13635 |
| shall solicit public review and comment on a draft plan. At least | 13636 |
| once every ten years, the chief shall conduct a review of the | 13637 |
| plan, with public input, and revise the plan as appropriate. The | 13638 |
| chief shall make the plan available for review by any person upon | 13639 |
| request. | 13640 |
| (D) Notwithstanding any other authority granted to the chief | 13641 |
| under this chapter, the chief shall include within the management | 13642 |
| plan adopted under division (C) of this section prohibitions of | 13643 |
| the following activities within the Shawnee wilderness area except | 13644 |
| for the areas exempted in division (E) of this section: | 13645 |
| (1) Picking, removal, cutting, or alteration in any manner of | 13646 |

any vegetation unless the person first has obtained written 13647
consent from the chief for that activity and the action is 13648
necessary for appropriate public access, the preservation or 13649
restoration of a plant or wildlife species, or the documentation 13650
of scientific values; 13651

(2) Granting of any easement or license, or sale or lease of 13652
any of the land, for any purpose. Division (D)(2) of this section 13653
does not apply to any private easement or license in existence on 13654
September 14, 1988. 13655

(3) Exploration for or extraction of any coal, oil, gas, or 13656
minerals; 13657

(4) Operation, construction, or installation of a utility 13658
facility above or below the surface of the land; 13659

(5) Operation of a commercial enterprise; 13660

(6) Except as provided in division (D)(7) of this section, 13661
construction of a road upon any of the land or use of the land as 13662
a road; 13663

(7) Except as is necessary to meet emergency requirements for 13664
administration of the area: 13665

(a) Landing of an aircraft; 13666

(b) Operation of a motor vehicle, motor boat, other form of 13667
mechanical transport, or motorized equipment; 13668

(c) Construction of any building or other structure; 13669

(d) Use of the land as a temporary road. 13670

(E)(1) The following areas, which now are necessary for the 13671
administration of the Shawnee state forest and the state forest 13672
system, are not subject to the prohibitions of division (D) of 13673
this section: 13674

(a) The Buena Vista manager's residence; 13675

(b) The Buena Vista walnut seed orchard+ 13676

~~(c) The Twin Creek fire tower. 13677~~

(2) The following areas, which now are necessary for the 13678
administration of the Shawnee state forest and the state forest 13679
system, are not subject to the prohibition established in division 13680
(D)(7)(b) of this section for the purpose of trail maintenance: 13681

(a) The hiking trail west of upper Twin Creek road known as 13682
the wilderness loop; 13683

(b) Buckhorn ridge bridle trail; 13684

(c) Cabbage patch bridle trail. 13685

(3) At any time that the chief makes a determination that it 13686
is no longer necessary for the administration of the Shawnee state 13687
forest or the state forest system for an area excluded in division 13688
(E)(1) or (2) of this section to be excluded, the area shall 13689
become subject to the prohibitions of established in division (D) 13690
of this section or the prohibition established in division 13691
(D)(7)(b) of this section, as applicable. 13692

(F) The chief, in developing a management plan under division 13693
(C) of this section, may not prohibit any hunting, fishing, or 13694
trapping that is done in conformity with Chapters 1531. and 1533. 13695
of the Revised Code or any rules adopted under those chapters. 13696

Sec. 1506.42. The state, acting through the director of 13697
natural resources, subject to section 1506.46 of the Revised Code, 13698
may enter into agreements with counties, townships, municipal 13699
corporations, park boards, and conservancy districts, other 13700
political subdivisions, or any state departments or divisions for 13701
the purpose of constructing and maintaining projects to control 13702
erosion along the Ohio shoreline of Lake Erie and in any rivers 13703
and bays that are connected with Lake Erie and any other 13704
watercourses that flow into Lake Erie. Such projects also may be 13705

constructed on any Lake Erie island that is situated within the 13706
boundaries of the state. 13707

The cost of such shore erosion projects that are for the 13708
benefit of public littoral property shall be prorated on the basis 13709
of two-thirds of the total cost to the state through 13710
appropriations made to the department of natural resources and 13711
one-third of the cost to the counties, townships, municipal 13712
corporations, park boards, conservancy districts, or other 13713
political subdivisions. 13714

If a shore erosion emergency is declared by the governor, the 13715
state, acting through the director, may spend whatever state funds 13716
are available to alleviate shore erosion, without participation by 13717
any political subdivision, regardless of whether the project will 13718
benefit public or private littoral property. 13719

A board of county commissioners, acting for the county over 13720
which it has jurisdiction, may enter into and carry out agreements 13721
with the director for the construction and maintenance of projects 13722
to control shore erosion. In providing the funds for the county's 13723
proportionate share of the cost of constructing and maintaining 13724
the projects referred to in this section, the board shall be 13725
governed by and may issue and refund bonds in accordance with 13726
Chapter 133. of the Revised Code. 13727

A municipal corporation or a township, acting through the 13728
legislative authority or the board of township trustees, may enter 13729
into and carry out agreements with the director for the purpose of 13730
constructing and maintaining projects to control shore erosion. In 13731
providing the funds for the municipal corporation's or township's 13732
proportionate share of the cost of constructing and maintaining 13733
the projects referred to in this section, a municipal corporation 13734
or township may issue and refund bonds in accordance with Chapter 13735
133. of the Revised Code. The contract shall be executed on behalf 13736
of the municipal corporation or township by the mayor, city 13737

manager, or other chief executive officer who has the authority to 13738
act for the municipal corporation or township. 13739

Conservancy districts may enter into and carry out agreements 13740
with the director, in accordance with the intent of this section, 13741
under the powers conferred upon conservancy districts under 13742
Chapter 6101. of the Revised Code. 13743

Park boards may enter into and carry out agreements with the 13744
director, in accordance with the intent of this section, and issue 13745
bonds for that purpose under the powers conferred upon park 13746
districts under Chapter 1545. of the Revised Code. 13747

The director shall approve and supervise all projects that 13748
are to be constructed in accordance with this section. The 13749
director shall not proceed with the construction of any project 13750
until all funds that are to be paid by the county, township, 13751
municipal corporation, park board, or conservancy district, in 13752
accordance with the terms of the agreement entered into between 13753
the director and the county, township, municipal corporation, park 13754
board, or conservancy district, are in the director's possession 13755
and deposited in the shore erosion fund, which is hereby created 13756
in the state treasury. If the director finds it to be in the best 13757
interests of the state to construct projects as set forth in this 13758
section by the state itself, without the financial contribution of 13759
counties, townships, municipal corporations, park boards, or 13760
conservancy districts, the director may construct the projects. 13761

In deciding whether to assist a county or municipal 13762
corporation in constructing and maintaining a project under this 13763
section, the state, acting through the director, shall consider, 13764
among other factors, whether the county or municipal corporation 13765
has adopted or is in the process of adopting a Lake Erie coastal 13766
erosion area resolution or ordinance under division (D) of section 13767
1506.07 of the Revised Code. 13768

All projects constructed by the state in conformity with 13769
sections 1506.38 to 1506.46 of the Revised Code shall be 13770
constructed subject to sections 153.01 to 153.20 of the Revised 13771
Code, except that the ~~state architect and engineer~~ Ohio facilities 13772
construction commission is not required to prepare the plans and 13773
specifications for those projects. 13774

Sec. 1509.071. (A) When the chief of the division of oil and 13775
gas resources management finds that an owner has failed to comply 13776
with a final nonappealable order issued or compliance agreement 13777
entered into under section 1509.04, the restoration requirements 13778
of section 1509.072, plugging requirements of section 1509.12, or 13779
permit provisions of section 1509.13 of the Revised Code, or rules 13780
and orders relating thereto, the chief shall make a finding of 13781
that fact and declare any surety bond filed to ensure compliance 13782
with those sections and rules forfeited in the amount set by rule 13783
of the chief. The chief thereupon shall certify the total 13784
forfeiture to the attorney general, who shall proceed to collect 13785
the amount of the forfeiture. In addition, the chief may require 13786
an owner, operator, producer, or other person who forfeited a 13787
surety bond to post a new surety bond in the amount of fifteen 13788
thousand dollars for a single well, thirty thousand dollars for 13789
two wells, or fifty thousand dollars for three or more wells. 13790

In lieu of total forfeiture, the surety or owner, at the 13791
surety's or owner's option, may cause the well to be properly 13792
plugged and abandoned and the area properly restored or pay to the 13793
treasurer of state the cost of plugging and abandonment. 13794

(B) All moneys collected because of forfeitures of bonds as 13795
provided in this section shall be deposited in the state treasury 13796
to the credit of the oil and gas well fund created in section 13797
1509.02 of the Revised Code. 13798

The chief annually shall spend not less than fourteen per 13799

cent of the revenue credited to the fund during the previous 13800
fiscal year for the following purposes: 13801

(1) In accordance with division (D) of this section, to plug 13802
idle and orphaned wells or to restore the land surface properly as 13803
required in section 1509.072 of the Revised Code; 13804

(2) In accordance with division (E) of this section, to 13805
correct conditions that the chief reasonably has determined are 13806
causing imminent health or safety risks at an idle and orphaned 13807
well or a well for which the owner cannot be contacted in order to 13808
initiate a corrective action within a reasonable period of time as 13809
determined by the chief. 13810

Expenditures from the fund shall be made only for lawful 13811
purposes. In addition, expenditures from the fund shall not be 13812
made to purchase real property or to remove a dwelling in order to 13813
access a well. 13814

(C)(1) Upon determining that the owner of a well has failed 13815
to properly plug and abandon it or to properly restore the land 13816
surface at the well site in compliance with the applicable 13817
requirements of this chapter and applicable rules adopted and 13818
orders issued under it or that a well is an abandoned well for 13819
which no funds are available to plug the well in accordance with 13820
this chapter, the chief shall do all of the following: 13821

(a) Determine from the records in the office of the county 13822
recorder of the county in which the well is located the identity 13823
of the owner of the land on which the well is located, the 13824
identity of the owner of the oil or gas lease under which the well 13825
was drilled or the identity of each person owning an interest in 13826
the lease, and the identities of the persons having legal title 13827
to, or a lien upon, any of the equipment appurtenant to the well; 13828

(b) Mail notice to the owner of the land on which the well is 13829
located informing the landowner that the well is to be plugged. If 13830

the owner of the oil or gas lease under which the well was drilled 13831
is different from the owner of the well or if any persons other 13832
than the owner of the well own interests in the lease, the chief 13833
also shall mail notice that the well is to be plugged to the owner 13834
of the lease or to each person owning an interest in the lease, as 13835
appropriate. 13836

(c) Mail notice to each person having legal title to, or a 13837
lien upon, any equipment appurtenant to the well, informing the 13838
person that the well is to be plugged and offering the person the 13839
opportunity to plug the well and restore the land surface at the 13840
well site at the person's own expense in order to avoid forfeiture 13841
of the equipment to this state. 13842

(2) If none of the persons described in division (C)(1)(c) of 13843
this section plugs the well within sixty days after the mailing of 13844
the notice required by that division, all equipment appurtenant to 13845
the well is hereby declared to be forfeited to this state without 13846
compensation and without the necessity for any action by the state 13847
for use to defray the cost of plugging and abandoning the well and 13848
restoring the land surface at the well site. 13849

(D) Expenditures from the fund for the purpose of division 13850
(B)(1) of this section shall be made in accordance with either of 13851
the following: 13852

(1) The expenditures may be made pursuant to contracts 13853
entered into by the chief with persons who agree to furnish all of 13854
the materials, equipment, work, and labor as specified and 13855
provided in such a contract for activities associated with the 13856
restoration or plugging of a well as determined by the chief. The 13857
activities may include excavation to uncover a well, geophysical 13858
methods to locate a buried well when clear evidence of leakage 13859
from the well exists, cleanout of wellbores to remove material 13860
from a failed plugging of a well, plugging operations, 13861
installation of vault and vent systems, including associated 13862

engineering certifications and permits, restoration of property, 13863
and repair of damage to property that is caused by such 13864
activities. Expenditures shall not be used for salaries, 13865
maintenance, equipment, or other administrative purposes, except 13866
for costs directly attributed to the plugging of an idle and 13867
orphaned well. Agents or employees of persons contracting with the 13868
chief for a restoration or plugging project may enter upon any 13869
land, public or private, on which the well is located for the 13870
purpose of performing the work. Prior to such entry, the chief 13871
shall give to the following persons written notice of the 13872
existence of a contract for a project to restore or plug a well, 13873
the names of the persons with whom the contract is made, and the 13874
date that the project will commence: the owner of the well, the 13875
owner of the land upon which the well is located, the owner or 13876
agents of adjoining land, and, if the well is located in the same 13877
township as or in a township adjacent to the excavations and 13878
workings of a mine and the owner or lessee of that mine has 13879
provided written notice identifying those townships to the chief 13880
at any time during the immediately preceding three years, the 13881
owner or lessee of the mine. 13882

(2)(a) The owner of the land on which a well is located who 13883
has received notice under division (C)(1)(b) of this section may 13884
plug the well and be reimbursed by the division of oil and gas 13885
resources management for the reasonable cost of plugging the well. 13886
In order to plug the well, the landowner shall submit an 13887
application to the chief on a form prescribed by the chief and 13888
approved by the technical advisory council on oil and gas created 13889
in section 1509.38 of the Revised Code. The application, at a 13890
minimum, shall require the landowner to provide the same 13891
information as is required to be included in the application for a 13892
permit to plug and abandon under section 1509.13 of the Revised 13893
Code. The application shall be accompanied by a copy of a proposed 13894
contract to plug the well prepared by a contractor regularly 13895

engaged in the business of plugging oil and gas wells. The 13896
proposed contract shall require the contractor to furnish all of 13897
the materials, equipment, work, and labor necessary to plug the 13898
well properly and shall specify the price for doing the work, 13899
including a credit for the equipment appurtenant to the well that 13900
was forfeited to the state through the operation of division 13901
(C)(2) of this section. Expenditures under division (D)(2)(a) of 13902
this section shall be consistent with the expenditures for 13903
activities described in division (D)(1) of this section. The 13904
application also shall be accompanied by the permit fee required 13905
by section 1509.13 of the Revised Code unless the chief, in the 13906
chief's discretion, waives payment of the permit fee. The 13907
application constitutes an application for a permit to plug and 13908
abandon the well for the purposes of section 1509.13 of the 13909
Revised Code. 13910

(b) Within thirty days after receiving an application and 13911
accompanying proposed contract under division (D)(2)(a) of this 13912
section, the chief shall determine whether the plugging would 13913
comply with the applicable requirements of this chapter and 13914
applicable rules adopted and orders issued under it and whether 13915
the cost of the plugging under the proposed contract is 13916
reasonable. If the chief determines that the proposed plugging 13917
would comply with those requirements and that the proposed cost of 13918
the plugging is reasonable, the chief shall notify the landowner 13919
of that determination and issue to the landowner a permit to plug 13920
and abandon the well under section 1509.13 of the Revised Code. 13921
Upon approval of the application and proposed contract, the chief 13922
shall transfer ownership of the equipment appurtenant to the well 13923
to the landowner. The chief may disapprove an application 13924
submitted under division (D)(2)(a) of this section if the chief 13925
determines that the proposed plugging would not comply with the 13926
applicable requirements of this chapter and applicable rules 13927
adopted and orders issued under it, that the cost of the plugging 13928

under the proposed contract is unreasonable, or that the proposed 13929
contract is not a bona fide, arm's length contract. 13930

(c) After receiving the chief's notice of the approval of the 13931
application and permit to plug and abandon a well under division 13932
(D)(2)(b) of this section, the landowner shall enter into the 13933
proposed contract to plug the well. 13934

(d) Upon determining that the plugging has been completed in 13935
compliance with the applicable requirements of this chapter and 13936
applicable rules adopted and orders issued under it, the chief 13937
shall reimburse the landowner for the cost of the plugging as set 13938
forth in the proposed contract approved by the chief. The 13939
reimbursement shall be paid from the oil and gas well fund. If the 13940
chief determines that the plugging was not completed in accordance 13941
with the applicable requirements, the chief shall not reimburse 13942
the landowner for the cost of the plugging, and the landowner or 13943
the contractor, as applicable, promptly shall transfer back to 13944
this state title to and possession of the equipment appurtenant to 13945
the well that previously was transferred to the landowner under 13946
division (D)(2)(b) of this section. If any such equipment was 13947
removed from the well during the plugging and sold, the landowner 13948
shall pay to the chief the proceeds from the sale of the 13949
equipment, and the chief promptly shall pay the moneys so received 13950
to the treasurer of state for deposit into the oil and gas well 13951
fund. 13952

The chief may establish an annual limit on the number of 13953
wells that may be plugged under division (D)(2) of this section or 13954
an annual limit on the expenditures to be made under that 13955
division. 13956

As used in division (D)(2) of this section, "plug" and 13957
"plugging" include the plugging of the well and the restoration of 13958
the land surface disturbed by the plugging. 13959

(E) Expenditures from the oil and gas well fund for the purpose of division (B)(2) of this section 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. The competitive bidding requirements of Chapter 153. of the Revised Code do not apply if the chief reasonably determines that an emergency situation exists requiring immediate action for the correction of the applicable health or safety risk ~~requires immediate action~~. A contract or purchase of materials for purposes of addressing the emergency situation is not subject to division (B) of section 127.16 of the Revised Code. The chief, designated representatives of the chief, and agents or employees of persons contracting with the chief under this division may enter upon any land, public or private, for the purpose of performing the work.

(F) Contracts entered into by the chief under this section are not subject to ~~either~~ any of the following:

(1) Chapter 4115. of the Revised Code;

(2) Section 153.54 of the Revised Code, except that the contractor shall obtain and provide to the chief as a bid guaranty a surety bond or letter of credit in an amount equal to ten per cent of the amount of the contract;

(3) Section 4733.17 of the Revised Code.

(G) The owner of land on which a well is located who has received notice under division (C)(1)(b) of this section, in lieu of plugging the well in accordance with division (D)(2) of this section, may cause ownership of the well to be transferred to an owner who is lawfully doing business in this state and who has met the financial responsibility requirements established under section 1509.07 of the Revised Code, subject to the approval of the chief. The transfer of ownership also shall be subject to the

landowner's filing the appropriate forms required under section 13991
1509.31 of the Revised Code and providing to the chief sufficient 13992
information to demonstrate the landowner's or owner's right to 13993
produce a formation or formations. That information may include a 13994
deed, a lease, or other documentation of ownership or property 13995
rights. 13996

The chief shall approve or disapprove the transfer of 13997
ownership of the well. If the chief approves the transfer, the 13998
owner is responsible for operating the well in accordance with 13999
this chapter and rules adopted under it, including, without 14000
limitation, all of the following: 14001

(1) Filing an application with the chief under section 14002
1509.06 of the Revised Code if the owner intends to drill deeper 14003
or produce a formation that is not listed in the records of the 14004
division for that well; 14005

(2) Taking title to and possession of the equipment 14006
appurtenant to the well that has been identified by the chief as 14007
having been abandoned by the former owner; 14008

(3) Complying with all applicable requirements that are 14009
necessary to drill deeper, plug the well, or plug back the well. 14010

(H) The chief shall issue an order that requires the owner of 14011
a well to pay the actual documented costs of a corrective action 14012
that is described in division (B)(2) of this section concerning 14013
the well. The chief shall transmit the money so recovered to the 14014
treasurer of state who shall deposit the money in the state 14015
treasury to the credit of the oil and gas well fund. 14016

(I) The chief may engage in cooperative projects under this 14017
section with any agency of this state, another state, or the 14018
United States; any other governmental agencies; or any state 14019
university or college as defined in section 3345.27 of the Revised 14020
Code. A contract entered into for purposes of a cooperative 14021

project is not subject to division (B) of section 127.16 of the 14022
Revised Code. 14023

Sec. 1509.36. Any person adversely affected by an order by 14024
the chief of the division of oil and gas resources management may 14025
appeal to the oil and gas commission for an order vacating or 14026
modifying the order. 14027

The person so appealing to the commission shall be known as 14028
appellant and the chief shall be known as appellee. Appellant and 14029
appellee shall be deemed to be parties to the appeal. 14030

The appeal shall be in writing and shall set forth the order 14031
complained of and the grounds upon which the appeal is based. The 14032
appeal shall be filed with the commission within thirty days after 14033
the date upon which the appellant received notice by certified 14034
mail and, for all other persons adversely affected by the order, 14035
within thirty days after the date of the order complained of. 14036
Notice of the filing of the appeal shall be filed with the chief 14037
within three days after the appeal is filed with the commission. 14038

Upon the filing of the appeal the commission promptly shall 14039
fix the time and place at which the hearing on the appeal will be 14040
held, and shall give the appellant and the chief at least ten 14041
days' written notice thereof by mail. The commission may postpone 14042
or continue any hearing upon its own motion or upon application of 14043
the appellant or of the chief. 14044

The filing of an appeal provided for in this section does not 14045
automatically suspend or stay execution of the order appealed 14046
from, but upon application by the appellant the commission may 14047
suspend or stay the execution pending determination of the appeal 14048
upon such terms as the commission considers proper. 14049

Either party to the appeal or any interested person who, 14050
pursuant to commission rules has been granted permission to 14051

appear, may submit such evidence as the commission considers 14052
admissible. 14053

For the purpose of conducting a hearing on an appeal, the 14054
commission may require the attendance of witnesses and the 14055
production of books, records, and papers, and it may, and at the 14056
request of any party it shall, issue subpoenas for witnesses or 14057
subpoenas duces tecum to compel the production of any books, 14058
records, or papers, directed to the sheriffs of the counties where 14059
the witnesses are found. The subpoenas shall be served and 14060
returned in the same manner as subpoenas in criminal cases are 14061
served and returned. The fees of sheriffs shall be the same as 14062
those allowed by the court of common pleas in criminal cases. 14063
Witnesses shall be paid the fees and mileage provided for under 14064
section 119.094 of the Revised Code. Such fees and mileage 14065
expenses incurred at the request of appellant shall be paid in 14066
advance by the appellant, and the remainder of those expenses 14067
shall be paid out of funds appropriated for the expenses of the 14068
division of oil and gas resources management. 14069

In case of disobedience or neglect of any subpoena served on 14070
any person, or the refusal of any witness to testify to any matter 14071
regarding which the witness may be lawfully interrogated, the 14072
court of common pleas of the county in which the disobedience, 14073
neglect, or refusal occurs, or any judge thereof, on application 14074
of the commission or any member thereof, shall compel obedience by 14075
attachment proceedings for contempt as in the case of disobedience 14076
of the requirements of a subpoena issued from that court or a 14077
refusal to testify therein. Witnesses at such hearings shall 14078
testify under oath, and any member of the commission may 14079
administer oaths or affirmations to persons who so testify. 14080

At the request of any party to the appeal, a ~~stenographic~~ 14081
record of the testimony and other evidence submitted shall be 14082
taken by an official court ~~shorthand~~ reporter at the expense of 14083

the party making the request ~~therefor~~ for the record. The record 14084
shall include all of the testimony and other evidence and the 14085
rulings on the admissibility thereof presented at the hearing. The 14086
commission shall pass upon the admissibility of evidence, but any 14087
party may at the time object to the admission of any evidence and 14088
except to the rulings of the commission thereon, and if the 14089
commission refuses to admit evidence the party offering same may 14090
make a proffer thereof, and such proffer shall be made a part of 14091
the record of the hearing. 14092

If upon completion of the hearing the commission finds that 14093
the order appealed from was lawful and reasonable, it shall make a 14094
written order affirming the order appealed from; if the commission 14095
finds that the order was unreasonable or unlawful, it shall make a 14096
written order vacating the order appealed from and making the 14097
order that it finds the chief should have made. Every order made 14098
by the commission shall contain a written finding by the 14099
commission of the facts upon which the order is based. 14100

Notice of the making of the order shall be given forthwith to 14101
each party to the appeal by mailing a certified copy thereof to 14102
each such party by certified mail. 14103

The order of the commission is final unless vacated by the 14104
court of common pleas of Franklin county in an appeal as provided 14105
for in section 1509.37 of the Revised Code. Sections 1509.01 to 14106
1509.37 of the Revised Code, providing for appeals relating to 14107
orders by the chief or by the commission, or relating to rules 14108
adopted by the chief, do not constitute the exclusive procedure 14109
that any person who believes the person's rights to be unlawfully 14110
affected by those sections or any official action taken thereunder 14111
must pursue in order to protect and preserve those rights, nor do 14112
those sections constitute a procedure that that person must pursue 14113
before that person may lawfully appeal to the courts to protect 14114
and preserve those rights. 14115

| | |
|--|--|
| <u>Sec. 1533.081. (A) As used in this section:</u> | 14116 |
| <u>(1) "Energy" has the same meaning as in section 1551.01 of the Revised Code.</u> | 14117 14118 |
| <u>(2) "Energy facility" means a facility at which energy is produced.</u> | 14119 14120 |
| <u>(B) A person operating an energy facility whose operation may result in the incidental taking of a wild animal shall obtain a permit to do so from the chief of the division of wildlife under this section. The chief shall adopt rules under section 1531.10 of the Revised Code that are necessary to administer this section.</u> | 14121 14122 14123 14124 14125 |
| Sec. 1533.10. Except as provided in this section or division (A)(2) of section 1533.12 of the Revised Code, no person shall hunt any wild bird or wild quadruped without a hunting license. Each day that any person hunts within the state without procuring such a license constitutes a separate offense. Except as otherwise provided in this section, every applicant for a hunting license who is a resident of the state and eighteen years of age or more shall procure a resident hunting license or an apprentice resident hunting license, the fee for which shall be eighteen dollars unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a resident hunting license to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior hunting license, the fee for which shall be one-half of the regular hunting license fee. Every applicant who is under the age of eighteen years shall procure a special youth hunting license or an apprentice youth hunting license, the fee for which shall be one-half of the regular hunting license fee. | 14126 14127 14128 14129 14130 14131 14132 14133 14134 14135 14136 14137 14138 14139 14140 14141 14142 14143 14144 14145 |

A resident of this state who owns lands in the state and the owner's children of any age and grandchildren under eighteen years of age may hunt on the lands without a hunting license. A resident of any other state who owns real property in this state, and the spouse and children living with the property owner, may hunt on that property without a license, provided that the state of residence of the real property owner allows residents of this state owning real property in that state, and the spouse and children living with the property owner, to hunt without a license. If the owner of land in this state is a limited liability company or a limited liability partnership that consists of three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's children of any age and grandchildren under eighteen years of age may hunt on the land owned by the limited liability company or limited liability partnership without a hunting license. In addition, if the owner of land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's children of any age and grandchildren under eighteen years of age may hunt on the land owned by the trust without a hunting license. The tenant and children of the tenant, residing on lands in the state, may hunt on them without a hunting license.

Except as otherwise provided in division (A)(1) of section 1533.12 of the Revised Code, every applicant for a hunting license who is a nonresident of the state and who is eighteen years of age or older shall procure a nonresident hunting license or an apprentice nonresident hunting license, the fee for which shall be one hundred twenty-four dollars unless the applicant is a resident of a state that is a party to an agreement under section 1533.91 of the Revised Code, in which case the fee shall be eighteen dollars. Apprentice resident hunting licenses, apprentice youth

hunting licenses, and apprentice nonresident hunting licenses are 14179
subject to the requirements established under section 1533.102 of 14180
the Revised Code and rules adopted pursuant to it. 14181

The chief of the division of wildlife may issue a small game 14182
hunting license expiring three days from the effective date of the 14183
license to a nonresident of the state, the fee for which shall be 14184
thirty-nine dollars. No person shall take or possess deer, wild 14185
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 14186
animal while possessing only a small game hunting license. A small 14187
game hunting license or an apprentice nonresident hunting license 14188
does not authorize the taking or possessing of ducks, geese, or 14189
brant without having obtained, in addition to the small game 14190
hunting license or the apprentice nonresident hunting license, a 14191
wetlands habitat stamp as provided in section 1533.112 of the 14192
Revised Code. A small game hunting license or an apprentice 14193
nonresident hunting license does not authorize the taking or 14194
possessing of deer, wild turkeys, or fur-bearing animals. A 14195
nonresident of the state who wishes to take or possess deer, wild 14196
turkeys, or fur-bearing animals in this state shall procure, 14197
respectively, a deer or wild turkey permit as provided in section 14198
1533.11 of the Revised Code or a fur taker permit as provided in 14199
section 1533.111 of the Revised Code in addition to a nonresident 14200
hunting license, an apprentice nonresident hunting license, a 14201
special youth hunting license, or an apprentice youth hunting 14202
license, as applicable, as provided in this section. 14203

No person shall procure or attempt to procure a hunting 14204
license by fraud, deceit, misrepresentation, or any false 14205
statement. 14206

This section does not authorize the taking and possessing of 14207
deer or wild turkeys without first having obtained, in addition to 14208
the hunting license required by this section, a deer or wild 14209
turkey permit as provided in section 1533.11 of the Revised Code 14210

or the taking and possessing of ducks, geese, or brant without 14211
first having obtained, in addition to the hunting license required 14212
by this section, a wetlands habitat stamp as provided in section 14213
1533.112 of the Revised Code. 14214

This section does not authorize the hunting or trapping of 14215
fur-bearing animals without first having obtained, in addition to 14216
a hunting license required by this section, a fur taker permit as 14217
provided in section 1533.111 of the Revised Code. 14218

No hunting license shall be issued unless it is accompanied 14219
by a written explanation of the law in section 1533.17 of the 14220
Revised Code and the penalty for its violation, including a 14221
description of terms of imprisonment and fines that may be 14222
imposed. 14223

No hunting license, other than an apprentice hunting license, 14224
shall be issued unless the applicant presents to the agent 14225
authorized to issue the license a previously held hunting license 14226
or evidence of having held such a license in content and manner 14227
approved by the chief, a certificate of completion issued upon 14228
completion of a hunter education and conservation course approved 14229
by the chief, or evidence of equivalent training in content and 14230
manner approved by the chief. A previously held apprentice hunting 14231
license does not satisfy the requirement concerning the 14232
presentation of a previously held hunting license or evidence of 14233
it. 14234

No person shall issue a hunting license, except an apprentice 14235
hunting license, to any person who fails to present the evidence 14236
required by this section. No person shall purchase or obtain a 14237
hunting license, other than an apprentice hunting license, without 14238
presenting to the issuing agent the evidence required by this 14239
section. Issuance of a hunting license in violation of the 14240
requirements of this section is an offense by both the purchaser 14241
of the illegally obtained hunting license and the clerk or agent 14242

who issued the hunting license. Any hunting license issued in 14243
violation of this section is void. 14244

The chief, with approval of the wildlife council, shall adopt 14245
rules prescribing a hunter education and conservation course for 14246
first-time hunting license buyers, other than buyers of apprentice 14247
hunting licenses, and for volunteer instructors. The course shall 14248
consist of subjects including, but not limited to, hunter safety 14249
and health, use of hunting implements, hunting tradition and 14250
ethics, the hunter and conservation, the law in section 1533.17 of 14251
the Revised Code along with the penalty for its violation, 14252
including a description of terms of imprisonment and fines that 14253
may be imposed, and other law relating to hunting. Authorized 14254
personnel of the division or volunteer instructors approved by the 14255
chief shall conduct such courses with such frequency and at such 14256
locations throughout the state as to reasonably meet the needs of 14257
license applicants. The chief shall issue a certificate of 14258
completion to each person who successfully completes the course 14259
and passes an examination prescribed by the chief. 14260

Sec. 1541.26. There is hereby created in the state treasury 14261
the parks mineral royalties fund. The fund shall consist of money 14262
deposited into it under section 1509.73 of the Revised Code and 14263
money transferred to it under section 1503.012 of the Revised 14264
Code. Any investment proceeds earned on money in the fund shall be 14265
credited to the fund. 14266

Money in the fund shall be used by the division of parks and 14267
recreation to acquire land and to pay capital costs, including 14268
equipment and repairs and renovations of facilities, that are 14269
owned by the state and administered by the division. Expenditures 14270
from the fund shall be approved by the director of natural 14271
resources. 14272

Sec. 1551.33. (A) The director of development shall appoint 14273
and fix the compensation of the director of the Ohio coal 14274
development office. The director shall serve at the pleasure of 14275
the director of development. 14276

(B) The director of the office shall do all of the following: 14277

(1) Biennially prepare and maintain the Ohio coal development 14278
agenda required under section 1551.34 of the Revised Code; 14279

(2) Propose and support policies for the office consistent 14280
with the Ohio coal development agenda and develop means to 14281
implement the agenda; 14282

(3) Initiate, undertake, and support projects to carry out 14283
the office's purposes and ensure that the projects are consistent 14284
with and meet the selection criteria established by the Ohio coal 14285
development agenda; 14286

(4) Actively encourage joint participation in and, when 14287
feasible, joint funding of the office's projects with governmental 14288
agencies, electric utilities, universities and colleges, other 14289
public or private interests, or any other person; 14290

(5) Establish a table of organization for and employ such 14291
employees and agents as are necessary for the administration and 14292
operation of the office. Any such employees shall be in the 14293
unclassified service and shall serve at the pleasure of the 14294
director of development. 14295

(6) Appoint specified members of and convene the technical 14296
advisory committee established under section 1551.35 of the 14297
Revised Code; 14298

(7) Review, with the assistance of the technical advisory 14299
committee, proposed coal research and development projects as 14300
defined in section 1555.01 of the Revised Code, and coal 14301
development projects, submitted to the office by public utilities 14302

for the purpose of section 4905.304 of the Revised Code. If the 14303
director and the advisory committee determine that any such 14304
facility or project has as its purpose the enhanced use of Ohio 14305
coal in an environmentally acceptable, cost effective manner, 14306
promotes energy conservation, is cost effective, and is 14307
environmentally sound, the director shall submit to the public 14308
utilities commission a report recommending that the commission 14309
allow the recovery of costs associated with the facility or 14310
project under section 4905.304 of the Revised Code and including 14311
the reasons for the recommendation. 14312

(8) Establish such policies, procedures, and guidelines as 14313
are necessary to achieve the office's purposes. 14314

(C) ~~The~~ With the approval of the director of development, the 14315
director of the office may exercise any of the powers and duties 14316
that the director of ~~the office~~ development considers appropriate 14317
or desirable to achieve the office's purposes, including, but not 14318
limited to, the powers and duties enumerated in sections 1551.11, 14319
1551.12, and 1551.15 of the Revised Code. 14320

Additionally, the director of the office may make loans to 14321
governmental agencies or persons for projects to carry out the 14322
office's purposes. Fees, charges, rates of interest, times of 14323
payment of interest and principal, and other terms, conditions, 14324
and provisions of the loans shall be such as the director of the 14325
office determines to be appropriate and in furtherance of the 14326
purposes for which the loans are made. The mortgage lien securing 14327
any moneys lent by the director of the office may be subordinate 14328
to the mortgage lien securing any moneys lent or invested by a 14329
financial institution, but shall be superior to that securing any 14330
moneys lent or expended by any other person. The moneys used in 14331
making the loans shall be disbursed upon order of the director of 14332
the office. 14333

Sec. 1555.02. It is hereby declared to be the public policy 14334
of this state through the operations of the Ohio coal development 14335
office under this chapter to contribute toward one or more of the 14336
following: to provide for the comfort, health, safety, and general 14337
welfare of all employees and other inhabitants of this state 14338
through research and development directed toward the discovery of 14339
new technologies or the demonstration or application of existing 14340
technologies to enable the conversion or use of Ohio coal as a 14341
fuel or chemical feedstock in an environmentally acceptable manner 14342
thereby enhancing the marketability and fostering the use of this 14343
state's vast reserves of coal, to assist in the financing of coal 14344
research and development and coal research and development 14345
projects or facilities for persons doing business in this state 14346
and educational and scientific institutions located in this state, 14347
to create or preserve jobs and employment opportunities or improve 14348
the economic welfare of the people of this state, or to assist and 14349
cooperate with such persons and educational and scientific 14350
institutions in conducting coal research and development. In 14351
furtherance of this public policy, the Ohio coal development 14352
office, with the advice of the technical advisory committee 14353
created in section 1551.35 of the Revised Code and the approval of 14354
the director of development, may make loans, guarantee loans, and 14355
make grants to persons doing business in this state or to 14356
educational or scientific institutions located in this state for 14357
coal research and development projects by such persons or 14358
educational or scientific institutions; may, with the advice of 14359
the technical advisory committee and the approval of the director 14360
of development, request the issuance of coal research and 14361
development general obligations under section 151.07 of the 14362
Revised Code to provide funds for making such loans, loan 14363
guarantees, and grants; and may, with the advice of the technical 14364
advisory committee and the approval of the director of 14365

development, expend moneys credited to the coal research and 14366
development fund created in section 1555.15 of the Revised Code 14367
for the purpose of making such loans, loan guarantees, and grants. 14368
Determinations by the director of the Ohio coal development office 14369
that coal research and development or a coal research and 14370
development facility is a coal research and development project 14371
under this chapter and is consistent with the purposes of Section 14372
15 of Article VIII, Ohio Constitution, and this chapter shall be 14373
conclusive as to the validity and enforceability of the coal 14374
research and development general obligations issued to finance 14375
such project and of the authorizations, trust agreements or 14376
indentures, loan agreements, loan guarantee agreements, or grant 14377
agreements, and other agreements made in connection therewith, all 14378
in accordance with their terms. 14379

Sec. 1555.03. For the purposes of this chapter, the director 14380
of the Ohio coal development office may: 14381

(A) With the advice of the technical advisory committee 14382
created in section 1551.35 of the Revised Code and the approval of 14383
the director of development, make loans, guarantee loans, and make 14384
grants to persons doing business in this state or to educational 14385
or scientific institutions located in this state for coal research 14386
and development projects by any such person or educational or 14387
scientific institution and adopt rules under Chapter 119. of the 14388
Revised Code for making such loans, guarantees, and grants. 14389

(B) In making loans, loan guarantees, and grants under 14390
division (A) of this section and section 1555.04 of the Revised 14391
Code, the director of the office shall ensure that an adequate 14392
portion of the total amount of those loans, loan guarantees, and 14393
grants, as determined by the director with the advice of the 14394
technical advisory committee, is used for conducting research on 14395
fundamental scientific problems related to the utilization of Ohio 14396

coal and shall ensure, to the maximum feasible extent, joint 14397
financial participation by the federal government or other 14398
investors or interested parties in conjunction with any such loan, 14399
loan guarantee, or grant. The director, in each grant agreement or 14400
contract under division (A) of this section, loan contract or 14401
agreement under this division or section 1555.04 of the Revised 14402
Code, and contract of guarantee under section 1555.05 of the 14403
Revised Code, shall require that the facility or project be 14404
maintained and kept in good condition and repair by the person or 14405
educational or scientific institution to whom the grant or loan 14406
was made or for whom the guarantee was made. 14407

(C) From time to time, with the advice of the technical 14408
advisory committee and the approval of the director of 14409
development, request the issuance of coal research and development 14410
general obligations under section 151.07 of the Revised Code, for 14411
any of the purposes set forth in Section 15 of Article VIII, Ohio 14412
Constitution, and subject to the limitations therein upon the 14413
aggregate total amount of obligations that may be outstanding at 14414
any time. 14415

(D) Include as a condition of any loan, loan guarantee, or 14416
grant contract or agreement with any such person or educational or 14417
scientific institution that the director of the office receive, in 14418
addition to payments of principal and interest on any such loan or 14419
service charges for any such guarantee, as appropriate, as 14420
authorized by Section 15~~7~~ of Article VIII, Ohio Constitution, a 14421
reasonable royalty or portion of the income or profits arising out 14422
of the developments, discoveries, or inventions, including patents 14423
or copyrights, that result in whole or in part from coal research 14424
and development projects conducted under any such contract or 14425
agreement, in such amounts and for such period of years as may be 14426
negotiated and provided by the contract or agreement in advance of 14427
the making of the grant, loan, or loan guarantee. Moneys received 14428

by the director of the office under this section may be credited 14429
to the coal research and development bond service fund or used to 14430
make additional loans, loan guarantees, grants, or agreements 14431
under this section. 14432

(E) Employ managers, superintendents, and other employees and 14433
retain or contract with consulting engineers, financial 14434
consultants, accounting experts, architects, and such other 14435
consultants and independent contractors as are necessary in the 14436
judgment of the director of the office to carry out this chapter, 14437
and fix the compensation thereof. 14438

(F) Receive and accept from any federal agency, subject to 14439
the approval of the governor, grants for or in aid of the 14440
construction or operation of any coal research and development 14441
project or for coal research and development, and receive and 14442
accept aid or contributions from any source of money, property, 14443
labor, or other things of value, to be held, used, and applied 14444
only for the purposes for which such grants and contributions are 14445
made. 14446

(G) Purchase fire and extended coverage and liability 14447
insurance for any coal research and development project, insurance 14448
protecting the office and its officers and employees against 14449
liability for damage to property or injury to or death of persons 14450
arising from its operations, and any other insurance the director 14451
of the office determines necessary or proper under this chapter. 14452
Any moneys received by the director from the proceeds of any such 14453
insurance with respect to a coal research and development project 14454
and any moneys received by the director from the proceeds of any 14455
settlement, judgment, foreclosure, or other insurance with respect 14456
to a coal research and development project or facility shall be 14457
credited to the coal research and development bond service fund. 14458

(H) In the exercise of the powers of the director of the 14459
office under this chapter, call to the director's assistance, 14460

temporarily, from time to time, any engineers, technical experts, 14461
financial experts, and other employees in any state department, 14462
agency, or commission, or in the Ohio state university, or other 14463
educational institutions financed wholly or partially by this 14464
state for purposes of assisting the director of the office with 14465
reviewing and evaluating applications for financial assistance 14466
under this chapter, monitoring performance of coal research and 14467
development projects receiving financial assistance under this 14468
chapter, and reviewing and evaluating the progress and findings of 14469
those projects. Such engineers, experts, and employees shall not 14470
receive any additional compensation over that which they receive 14471
from the department, agency, commission, or educational 14472
institution by which they are employed, but they shall be 14473
reimbursed for their actual and necessary expenses incurred while 14474
working under the direction of the director. 14475

(I) Do all acts necessary or proper to carry out the powers 14476
expressly granted in this chapter. 14477

Sec. 1555.04. (A) With respect to coal research and 14478
development projects financed wholly or partially from a loan or 14479
loan guarantee under this chapter, the director of the Ohio coal 14480
development office, in addition to other powers under this 14481
chapter, with the advice of the technical advisory committee 14482
created in section 1551.35 of the Revised Code and the approval of 14483
the director of development, may enter into loan agreements, 14484
accept notes and other forms of obligation to evidence such 14485
indebtedness and mortgages, liens, pledges, assignments, or other 14486
security interests to secure such indebtedness, which may be prior 14487
or subordinate to or on a parity with other indebtedness, 14488
obligations, mortgages, pledges, assignments, other security 14489
interests, or liens or encumbrances, and take such actions as the 14490
director of the office considers appropriate to protect such 14491
security and safeguard against losses, including, without 14492

limitation, foreclosure and the bidding upon and purchase of 14493
property upon foreclosure or other sale. 14494

(B) The authority granted by this section is cumulative and 14495
supplementary to all other authority granted in this chapter. The 14496
authority granted by this section does not alter or impair any 14497
similar authority granted elsewhere in this chapter with respect 14498
to other projects. 14499

Sec. 1555.05. (A) Subject to any limitations as to aggregate 14500
amounts thereof that may from time to time be prescribed by the 14501
general assembly and to other applicable provisions of this 14502
chapter, and subject to the one-hundred-million-dollar limitation 14503
provided in Section 15 of Article VIII, Ohio Constitution, the 14504
director of the Ohio coal development office, on behalf of this 14505
state, with the advice of the technical advisory committee created 14506
in section 1551.35 of the Revised Code and the approval of the 14507
director of development, may enter into contracts to guarantee the 14508
repayment or payment of the unpaid principal amount of loans made 14509
to pay the costs of coal research and development projects. 14510

(B) The contract of guarantee may make provision for the 14511
conditions of, time for, and manner of fulfillment of the 14512
guarantee commitment, subrogation of this state to the rights of 14513
the parties guaranteed and exercise of such parties' rights by the 14514
state, giving the state the option of making payment of the 14515
principal amount guaranteed in one or more installments and, if 14516
deferred, to pay interest thereon from the source specified in 14517
division (A) of this section, and any other terms or conditions 14518
customary to such guarantees and as the director of the office may 14519
approve, and may contain provisions for securing the guarantee in 14520
the manner consistent with this section, covenants on behalf of 14521
this state to issue obligations under section 1555.08 of the 14522
Revised Code to provide moneys to fulfill such guarantees and 14523

covenants, and covenants restricting the aggregate amount of 14524
guarantees that may be contracted under this section and 14525
obligations that may be issued under section 151.07 of the Revised 14526
Code, and terms pertinent to either, to better secure the parties 14527
guaranteed. 14528

(C) The director of the office may fix service charges for 14529
making a guarantee. Such charges shall be payable at such times 14530
and place and in such amounts and manner as may be prescribed by 14531
the director. Moneys received from such charges shall be credited 14532
to the coal research and development bond service fund. 14533

(D) Any guaranteed parties under this section, by any 14534
suitable form of legal proceedings and except to the extent that 14535
their rights are restricted by the guarantee documents, may 14536
protect and enforce any rights under the laws of this state or 14537
granted by such guarantee or guarantee documents. Such rights 14538
include the right to compel the performance of all duties of the 14539
office required by this section or the guarantee or guarantee 14540
documents; and in the event of default with respect to the payment 14541
of any guarantees, to apply to a court having jurisdiction of the 14542
cause to appoint a receiver to receive and administer the moneys 14543
pledged to such guarantee with full power to pay, and to provide 14544
for payment of, such guarantee, and with such powers, subject to 14545
the direction of the court, as are accorded receivers in general 14546
equity cases, excluding any power to pledge or apply additional 14547
revenues or receipts or other income or moneys of this state. Each 14548
duty of the office and its director and employees required or 14549
undertaken under this section or a guarantee made under this 14550
section is hereby established as a duty of the office and of its 14551
director and each such employee having authority to perform such 14552
duty, specifically enjoined by the law resulting from an office, 14553
trust, or station within the meaning of section 2731.01 of the 14554
Revised Code. The persons who are at the time the director of the 14555

office, or its employees, are not liable in their personal 14556
capacities on any guarantees or contracts to make guarantees by 14557
the director. 14558

Sec. 1555.06. Upon application by the director of the Ohio 14559
coal development office with the approval of the director of 14560
development, the controlling board, from appropriations available 14561
to the board, may provide funds for surveys or studies by the 14562
office of any proposed coal research and development project 14563
subject to repayment by the office from funds available to it, 14564
within the time fixed by the board. Funds to be repaid shall be 14565
charged by the office to the appropriate coal research and 14566
development project and the amount thereof shall be a cost of the 14567
project. This section does not abrogate the authority of the 14568
controlling board to otherwise provide funds for use by the office 14569
in the exercise of the powers granted to it by this chapter. 14570

Sec. 1571.14. Any person claiming to be aggrieved or 14571
adversely affected by an order of the chief of the division of oil 14572
and gas resources management made as provided in section 1571.10 14573
or 1571.16 of the Revised Code may appeal to the director of 14574
natural resources for an order vacating or modifying such order. 14575
Upon receipt of the appeal, the director shall appoint an 14576
individual who has knowledge of the laws and rules regarding the 14577
underground storage of gas and who shall act as a hearing officer 14578
in accordance with Chapter 119. of the Revised Code in hearing the 14579
appeal. 14580

The person appealing to the director shall be known as 14581
appellant and the chief shall be known as appellee. The appellant 14582
and the appellee shall be deemed parties to the appeal. 14583

The appeal shall be in writing and shall set forth the order 14584
complained of and the grounds upon which the appeal is based. The 14585

appeal shall be filed with the director within thirty days after 14586
the date upon which appellant received notice by registered mail 14587
of the making of the order complained of, as required by section 14588
1571.10 of the Revised Code. Notice of the filing of such appeal 14589
shall be delivered by appellant to the chief within three days 14590
after the appeal is filed with the director. 14591

Within seven days after receipt of the notice of appeal the 14592
chief shall prepare and certify to the director at the expense of 14593
appellant a complete transcript of the proceedings out of which 14594
the appeal arises, including a transcript of the testimony 14595
submitted to the chief. 14596

Upon the filing of the appeal the director shall fix the time 14597
and place at which the hearing on the appeal will be held, and 14598
shall give appellant and the chief at least ten days' written 14599
notice thereof by mail. The director may postpone or continue any 14600
hearing upon the director's own motion or upon application of 14601
appellant or of the chief. 14602

The filing of an appeal provided for in this section does not 14603
automatically suspend or stay execution of the order appealed 14604
from, but upon application by the appellant the director may 14605
suspend or stay such execution pending determination of the appeal 14606
upon such terms as the director deems proper. 14607

The hearing officer appointed by the director shall hear the 14608
appeal de novo, and either party to the appeal may submit such 14609
evidence as the hearing officer deems admissible. 14610

For the purpose of conducting a hearing on an appeal, the 14611
hearing officer may require the attendance of witnesses and the 14612
production of books, records, and papers, and may, and at the 14613
request of any party shall, issue subpoenas for witnesses or 14614
subpoenas duces tecum to compel the production of any books, 14615
records, or papers, directed to the sheriffs of the counties where 14616

such witnesses are found, which subpoenas shall be served and 14617
returned in the same manner as subpoenas in criminal cases are 14618
served and returned. The fees of sheriffs shall be the same as 14619
those allowed by the court of common pleas in criminal cases. 14620
Witnesses shall be paid the fees and mileage provided for under 14621
section 119.094 of the Revised Code. Such fee and mileage expenses 14622
incurred at the request of appellant shall be paid in advance by 14623
appellant, and the remainder of such expenses shall be paid out of 14624
funds appropriated for the expenses of the division of oil and gas 14625
resources management. 14626

In case of disobedience or neglect of any subpoena served on 14627
any person, or the refusal of any witness to testify to any matter 14628
regarding which the witness may be lawfully interrogated, the 14629
court of common pleas of the county in which such disobedience, 14630
neglect, or refusal occurs, or any judge thereof, on application 14631
of the director, shall compel obedience by attachment proceedings 14632
for contempt as in the case of disobedience of the requirements of 14633
a subpoena issued from such court or a refusal to testify therein. 14634
Witnesses at such hearings shall testify under oath, and the 14635
hearing officer may administer oaths or affirmations to persons 14636
who so testify. 14637

At the request of any party to the appeal, a ~~stenographic~~ 14638
record of the testimony and other evidence submitted shall be 14639
taken by an official court ~~shorthand~~ reporter at the expense of 14640
the party making the request ~~therefor~~ for the record. The record 14641
shall include all of the testimony and other evidence and the 14642
rulings on the admissibility thereof presented at the hearing. The 14643
hearing officer shall pass upon the admissibility of evidence, but 14644
any party may at the time object to the admission of any evidence 14645
and except to the ruling of the hearing officer thereon, and if 14646
the hearing officer refuses to admit evidence, the party offering 14647
same may make a proffer thereof, and such proffer shall be made a 14648

part of the record of such hearing. 14649

If upon completion of the hearing the hearing officer finds 14650
that the order appealed from was lawful and reasonable, the 14651
hearing officer shall make a written order affirming the order 14652
appealed from. If the hearing officer finds that such order was 14653
unreasonable or unlawful, the hearing officer shall make a written 14654
order vacating the order appealed from and making the order that 14655
it finds the chief should have made. Every order made by the 14656
hearing officer shall contain a written finding by the hearing 14657
officer of the facts upon which the order is based. Notice of the 14658
making of such order shall be given forthwith to each party to the 14659
appeal by mailing a certified copy thereof to each such party by 14660
registered mail. 14661

Sec. 1707.08. (A) The transactions enumerated in section 14662
1707.06 of the Revised Code may be consummated on compliance with 14663
this section and section 1707.11 of the Revised Code. 14664

(B) A description, verified either by the oath of the 14665
individual filing it or of any individual having knowledge of the 14666
facts, shall be filed with the division of securities by the 14667
issuer, or by a majority of the incorporators of the issuer prior 14668
to election of officers if it is an incorporated issuer, or by a 14669
licensed dealer, which description shall be on forms prescribed by 14670
the division and shall set forth: 14671

(1) The name of the issuer; 14672

(2) A brief description of the securities; 14673

(3) The amount of the securities to be offered after the 14674
filing of the description for sale in this state and, if all the 14675
securities are not to be offered by the person filing the 14676
description, then the respective amounts to be offered by others, 14677
so far as those amounts are known, and the names and addresses of 14678

the other offerors; 14679

(4) A brief statement of the facts which show that the 14680
securities are the subject matter of a transaction enumerated in 14681
section 1707.06 of the Revised Code; 14682

(5) The price at which the securities are to be offered for 14683
sale. 14684

(C) The individual who executes the application for 14685
registration by description on behalf of the applicant shall state 14686
the individual's relationship to the applicant and certify all of 14687
the following: 14688

(1) The individual has executed the application on behalf of 14689
the applicant. 14690

(2) The individual is fully authorized to execute and file 14691
the application on behalf of the applicant. 14692

(3) The individual is familiar with the applicant's 14693
application. 14694

(4) To the best of the individual's knowledge, information, 14695
and belief, the statements made in the application are true, and 14696
the documents submitted with the application are true copies of 14697
the original documents. 14698

(D) A registration by description is effective seven business 14699
days after the division receives the description on applicable 14700
forms, together with a any filing fee ~~of fifty dollars~~ required 14701
under this division, if no proceeding is pending under section 14702
1707.13 or 1707.131 of the Revised Code. However, the division may 14703
permit an earlier effective date by rule or by issuing a 14704
certificate of acknowledgment for the registration by description. 14705

For an offering that exceeds fifty thousand dollars, a filing 14706
fee of fifty dollars shall be submitted with the registration by 14707
description. 14708

(E) In order to correct errors or omissions, a registration 14709
by description may be amended by the person that originally filed 14710
it, by the filing, in the same manner as in the case of an 14711
original registration by description, of an amended registration 14712
by description or of an amendment of the original registration by 14713
description. 14714

(F) When transactions in any securities enumerated in section 14715
1707.06 of the Revised Code have been registered and the fees 14716
prescribed by this section have been paid, the transactions may be 14717
consummated so long as the registration remains in full force. 14718

Sec. 1707.391. When any securities have been sold in reliance 14719
upon division (Q), (W), (X), or (Y) of section 1707.03 of the 14720
Revised Code, section 1707.08 of the Revised Code, or any other 14721
section of this chapter that the division of securities may 14722
specify by rule, but such reliance was improper because the 14723
required filings were not timely or properly made due to excusable 14724
neglect, upon the effective date of an application made to the 14725
division and payment of ~~the required~~ any applicable fee, if 14726
required and not already paid, ~~plus~~ and upon payment of a penalty 14727
fee equal to the greater of the required fee or one hundred 14728
dollars, the sale of the securities shall be deemed exempt, 14729
qualified, or registered, as though timely and properly filed. The 14730
application shall become effective upon the expiration of fourteen 14731
days after the date of the filing in question if prior thereto the 14732
division did not give notice to the applicant that the application 14733
was denied based on a finding of lack of excusable neglect. The 14734
division shall promptly adopt and promulgate rules establishing 14735
provisions defining excusable neglect and otherwise establishing 14736
reasonable standards for determining excusable neglect. 14737

The effectiveness of an application under this section does 14738
not relieve anyone who has, other than for excusable neglect, 14739

violated sections 1707.01 to 1707.45 of the Revised Code, or any 14740
previous law in force at the time of sale, from prosecution 14741
thereunder. 14742

Sec. 1733.47. Whenever the approval of the superintendent of 14743
credit unions is required under this chapter, or under an order or 14744
supervisory action issued or taken under this chapter, for a 14745
person to serve as an organizer, incorporator, director, or 14746
executive officer of a credit union, or to otherwise participate 14747
in the management of a credit union, the superintendent shall 14748
request the superintendent of the bureau of criminal 14749
identification and investigation, or a vendor approved by the 14750
bureau, to conduct a criminal records check based on the person's 14751
fingerprints in accordance with ~~division (A)(14)~~ of section 14752
109.572 of the Revised Code. The superintendent of credit unions 14753
shall request that criminal record information from the federal 14754
bureau of investigation be obtained as part of the criminal 14755
records check. Any fee required under division (C)(3) of section 14756
109.572 of the Revised Code shall be paid by the person who is the 14757
subject of the request. 14758

Sec. 1751.01. As used in this chapter: 14759

(A)(1) "Basic health care services" means the following 14760
services when medically necessary: 14761

(a) Physician's services, except when such services are 14762
supplemental under division (B) of this section; 14763

(b) Inpatient hospital services; 14764

(c) Outpatient medical services; 14765

(d) Emergency health services; 14766

(e) Urgent care services; 14767

(f) Diagnostic laboratory services and diagnostic and 14768

therapeutic radiologic services; 14769

(g) Diagnostic and treatment services, other than 14770
prescription drug services, for biologically based mental 14771
illnesses; 14772

(h) Preventive health care services, including, but not 14773
limited to, voluntary family planning services, infertility 14774
services, periodic physical examinations, prenatal obstetrical 14775
care, and well-child care; 14776

(i) Routine patient care for patients enrolled in an eligible 14777
cancer clinical trial pursuant to section 3923.80 of the Revised 14778
Code. 14779

"Basic health care services" does not include experimental 14780
procedures. 14781

Except as provided by divisions (A)(2) and (3) of this 14782
section in connection with the offering of coverage for diagnostic 14783
and treatment services for biologically based mental illnesses, a 14784
health insuring corporation shall not offer coverage for a health 14785
care service, defined as a basic health care service by this 14786
division, unless it offers coverage for all listed basic health 14787
care services. However, this requirement does not apply to the 14788
coverage of beneficiaries enrolled in medicare pursuant to a 14789
medicare contract, or to the coverage of beneficiaries enrolled in 14790
the federal employee health benefits program pursuant to 5 14791
U.S.C.A. 8905, or to the coverage of medicaid recipients, or to 14792
the coverage of beneficiaries under any federal health care 14793
program regulated by a federal regulatory body, or to the coverage 14794
of beneficiaries under any contract covering officers or employees 14795
of the state that has been entered into by the department of 14796
administrative services. 14797

(2) A health insuring corporation may offer coverage for 14798
diagnostic and treatment services for biologically based mental 14799

illnesses without offering coverage for all other basic health 14800
care services. A health insuring corporation may offer coverage 14801
for diagnostic and treatment services for biologically based 14802
mental illnesses alone or in combination with one or more 14803
supplemental health care services. However, a health insuring 14804
corporation that offers coverage for any other basic health care 14805
service shall offer coverage for diagnostic and treatment services 14806
for biologically based mental illnesses in combination with the 14807
offer of coverage for all other listed basic health care services. 14808

(3) A health insuring corporation that offers coverage for 14809
basic health care services is not required to offer coverage for 14810
diagnostic and treatment services for biologically based mental 14811
illnesses in combination with the offer of coverage for all other 14812
listed basic health care services if all of the following apply: 14813

(a) The health insuring corporation submits documentation 14814
certified by an independent member of the American academy of 14815
actuaries to the superintendent of insurance showing that incurred 14816
claims for diagnostic and treatment services for biologically 14817
based mental illnesses for a period of at least six months 14818
independently caused the health insuring corporation's costs for 14819
claims and administrative expenses for the coverage of basic 14820
health care services to increase by more than one per cent per 14821
year. 14822

(b) The health insuring corporation submits a signed letter 14823
from an independent member of the American academy of actuaries to 14824
the superintendent of insurance opining that the increase in costs 14825
described in division (A)(3)(a) of this section could reasonably 14826
justify an increase of more than one per cent in the annual 14827
premiums or rates charged by the health insuring corporation for 14828
the coverage of basic health care services. 14829

(c) The superintendent of insurance makes the following 14830
determinations from the documentation and opinion submitted 14831

pursuant to divisions (A)(3)(a) and (b) of this section: 14832

(i) Incurred claims for diagnostic and treatment services for 14833
biologically based mental illnesses for a period of at least six 14834
months independently caused the health insuring corporation's 14835
costs for claims and administrative expenses for the coverage of 14836
basic health care services to increase by more than one per cent 14837
per year. 14838

(ii) The increase in costs reasonably justifies an increase 14839
of more than one per cent in the annual premiums or rates charged 14840
by the health insuring corporation for the coverage of basic 14841
health care services. 14842

Any determination made by the superintendent under this 14843
division is subject to Chapter 119. of the Revised Code. 14844

(B)(1) "Supplemental health care services" means any health 14845
care services other than basic health care services that a health 14846
insuring corporation may offer, alone or in combination with 14847
either basic health care services or other supplemental health 14848
care services, and includes: 14849

(a) Services of facilities for intermediate or long-term 14850
care, or both; 14851

(b) Dental care services; 14852

(c) Vision care and optometric services including lenses and 14853
frames; 14854

(d) Podiatric care or foot care services; 14855

(e) Mental health services, excluding diagnostic and 14856
treatment services for biologically based mental illnesses; 14857

(f) Short-term outpatient evaluative and crisis-intervention 14858
mental health services; 14859

(g) Medical or psychological treatment and referral services 14860
for alcohol and drug abuse or addiction; 14861

| | |
|--|---|
| (h) Home health services; | 14862 |
| (i) Prescription drug services; | 14863 |
| (j) Nursing services; | 14864 |
| (k) Services of a dietitian licensed under Chapter 4759. of the Revised Code; | 14865 14866 |
| (l) Physical therapy services; | 14867 |
| (m) Chiropractic services; | 14868 |
| (n) Any other category of services approved by the superintendent of insurance. | 14869 14870 |
| (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. | 14871 14872 14873 14874 14875 |
| (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. | 14876 14877 14878 14879 14880 |
| (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. | 14881 14882 14883 14884 14885 14886 14887 |
| (E) "Closed panel plan" means a health care plan that requires enrollees to use participating providers. | 14888 14889 |
| (F) "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service | 14890 14891 |

or discounted-fee-for-service basis. 14892

(G) "Contractual periodic prepayment" means the formula for 14893
determining the premium rate for all subscribers of a health 14894
insuring corporation. 14895

(H) "Corporation" means a corporation formed under Chapter 14896
1701. or 1702. of the Revised Code or the similar laws of another 14897
state. 14898

(I) "Emergency health services" means those health care 14899
services that must be available on a seven-days-per-week, 14900
twenty-four-hours-per-day basis in order to prevent jeopardy to an 14901
enrollee's health status that would occur if such services were 14902
not received as soon as possible, and includes, where appropriate, 14903
provisions for transportation and indemnity payments or service 14904
agreements for out-of-area coverage. 14905

(J) "Enrollee" means any natural person who is entitled to 14906
receive health care benefits provided by a health insuring 14907
corporation. 14908

(K) "Evidence of coverage" means any certificate, agreement, 14909
policy, or contract issued to a subscriber that sets out the 14910
coverage and other rights to which such person is entitled under a 14911
health care plan. 14912

(L) "Health care facility" means any facility, except a 14913
health care practitioner's office, that provides preventive, 14914
diagnostic, therapeutic, acute convalescent, rehabilitation, 14915
mental health, mental retardation, intermediate care, or skilled 14916
nursing services. 14917

(M) "Health care services" means basic, supplemental, and 14918
specialty health care services. 14919

(N) "Health delivery network" means any group of providers or 14920
health care facilities, or both, or any representative thereof, 14921

that have entered into an agreement to offer health care services 14922
in a panel rather than on an individual basis. 14923

(O) "Health insuring corporation" means a corporation, as 14924
defined in division (H) of this section, that, pursuant to a 14925
policy, contract, certificate, or agreement, pays for, reimburses, 14926
or provides, delivers, arranges for, or otherwise makes available, 14927
basic health care services, supplemental health care services, or 14928
specialty health care services, or a combination of basic health 14929
care services and either supplemental health care services or 14930
specialty health care services, through either an open panel plan 14931
or a closed panel plan. 14932

"Health insuring corporation" does not include a limited 14933
liability company formed pursuant to Chapter 1705. of the Revised 14934
Code, an insurer licensed under Title XXXIX of the Revised Code if 14935
that insurer offers only open panel plans under which all 14936
providers and health care facilities participating receive their 14937
compensation directly from the insurer, a corporation formed by or 14938
on behalf of a political subdivision or a department, office, or 14939
institution of the state, or a public entity formed by or on 14940
behalf of a board of county commissioners, a county board of 14941
developmental disabilities, an alcohol and drug addiction services 14942
board, a board of alcohol, drug addiction, and mental health 14943
services, or a community mental health board, as those terms are 14944
used in Chapters 340. and 5126. of the Revised Code. Except as 14945
provided by division (D) of section 1751.02 of the Revised Code, 14946
or as otherwise provided by law, no board, commission, agency, or 14947
other entity under the control of a political subdivision may 14948
accept insurance risk in providing for health care services. 14949
However, nothing in this division shall be construed as 14950
prohibiting such entities from purchasing the services of a health 14951
insuring corporation or a third-party administrator licensed under 14952
Chapter 3959. of the Revised Code. 14953

(P) "Intermediary organization" means a health delivery network or other entity that contracts with licensed health insuring corporations or self-insured employers, or both, to provide health care services, and that enters into contractual arrangements with other entities for the provision of health care services for the purpose of fulfilling the terms of its contracts with the health insuring corporations and self-insured employers.

(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 14985
under section 3923.02 of the Revised Code. 14986

(V) "Osteopathic hospital" means a hospital registered under 14987
section 3701.07 of the Revised Code that advocates osteopathic 14988
principles and the practice and perpetuation of osteopathic 14989
medicine by doing any of the following: 14990

(1) Maintaining a department or service of osteopathic 14991
medicine or a committee on the utilization of osteopathic 14992
principles and methods, under the supervision of an osteopathic 14993
physician; 14994

(2) Maintaining an active medical staff, the majority of 14995
which is comprised of osteopathic physicians; 14996

(3) Maintaining a medical staff executive committee that has 14997
osteopathic physicians as a majority of its members. 14998

(W) "Panel" means a group of providers or health care 14999
facilities that have joined together to deliver health care 15000
services through a contractual arrangement with a health insuring 15001
corporation, employer group, or other payor. 15002

~~(W)~~(X) "Person" has the same meaning as in section 1.59 of 15003
the Revised Code, and, unless the context otherwise requires, 15004
includes any insurance company holding a certificate of authority 15005
under Title XXXIX of the Revised Code, any subsidiary and 15006
affiliate of an insurance company, and any government agency. 15007

~~(X)~~(Y) "Premium rate" means any set fee regularly paid by a 15008
subscriber to a health insuring corporation. A "premium rate" does 15009
not include a one-time membership fee, an annual administrative 15010
fee, or a nominal access fee, paid to a managed health care system 15011
under which the recipient of health care services remains solely 15012
responsible for any charges accessed for those services by the 15013
provider or health care facility. 15014

~~(Y)~~(Z) "Primary care provider" means a provider that is 15015
designated by a health insuring corporation to supervise, 15016
coordinate, or provide initial care or continuing care to an 15017
enrollee, and that may be required by the health insuring 15018
corporation to initiate a referral for specialty care and to 15019
maintain supervision of the health care services rendered to the 15020
enrollee. 15021

~~(Z)~~(AA) "Provider" means any natural person or partnership of 15022
natural persons who are licensed, certified, accredited, or 15023
otherwise authorized in this state to furnish health care 15024
services, or any professional association organized under Chapter 15025
1785. of the Revised Code, provided that nothing in this chapter 15026
or other provisions of law shall be construed to preclude a health 15027
insuring corporation, health care practitioner, or organized 15028
health care group associated with a health insuring corporation 15029
from employing certified nurse practitioners, certified nurse 15030
anesthetists, clinical nurse specialists, certified nurse 15031
midwives, dietitians, physician assistants, dental assistants, 15032
dental hygienists, optometric technicians, or other allied health 15033
personnel who are licensed, certified, accredited, or otherwise 15034
authorized in this state to furnish health care services. 15035

~~(AA)~~(BB) "Provider sponsored organization" means a 15036
corporation, as defined in division (H) of this section, that is 15037
at least eighty per cent owned or controlled by one or more 15038
hospitals, as defined in section 3727.01 of the Revised Code, or 15039
one or more physicians licensed to practice medicine or surgery or 15040
osteopathic medicine and surgery under Chapter 4731. of the 15041
Revised Code, or any combination of such physicians and hospitals. 15042
Such control is presumed to exist if at least eighty per cent of 15043
the voting rights or governance rights of a provider sponsored 15044
organization are directly or indirectly owned, controlled, or 15045
otherwise held by any combination of the physicians and hospitals 15046

described in this division. 15047

~~(BB)~~(CC) "Solicitation document" means the written materials 15048
provided to prospective subscribers or enrollees, or both, and 15049
used for advertising and marketing to induce enrollment in the 15050
health care plans of a health insuring corporation. 15051

~~(CC)~~(DD) "Subscriber" means a person who is responsible for 15052
making payments to a health insuring corporation for participation 15053
in a health care plan, or an enrollee whose employment or other 15054
status is the basis of eligibility for enrollment in a health 15055
insuring corporation. 15056

~~(DD)~~(EE) "Urgent care services" means those health care 15057
services that are appropriately provided for an unforeseen 15058
condition of a kind that usually requires medical attention 15059
without delay but that does not pose a threat to the life, limb, 15060
or permanent health of the injured or ill person, and may include 15061
such health care services provided out of the health insuring 15062
corporation's approved service area pursuant to indemnity payments 15063
or service agreements. 15064

Sec. 1751.02. (A) Notwithstanding any law in this state to 15065
the contrary, any corporation, as defined in section 1751.01 of 15066
the Revised Code, may apply to the superintendent of insurance for 15067
a certificate of authority to establish and operate a health 15068
insuring corporation. If the corporation applying for a 15069
certificate of authority is a foreign corporation domiciled in a 15070
state without laws similar to those of this chapter, the 15071
corporation must form a domestic corporation to apply for, obtain, 15072
and maintain a certificate of authority under this chapter. 15073

(B) No person shall establish, operate, or perform the 15074
services of a health insuring corporation in this state without 15075
obtaining a certificate of authority under this chapter. 15076

(C) Except as provided by division (D) of this section, no political subdivision or department, office, or institution of this state, or corporation formed by or on behalf of any political subdivision or department, office, or institution of this state, shall establish, operate, or perform the services of a health insuring corporation. Nothing in this section shall be construed to preclude a board of county commissioners, a county board of developmental disabilities, an alcohol and drug addiction services board, a board of alcohol, drug addiction, and mental health services, or a community mental health board, or a public entity formed by or on behalf of any of these boards, from using managed care techniques in carrying out the board's or public entity's duties pursuant to the requirements of Chapters 307., 329., 340., and 5126. of the Revised Code. However, no such board or public entity may operate so as to compete in the private sector with health insuring corporations holding certificates of authority under this chapter.

(D) A corporation formed by or on behalf of a publicly owned, operated, or funded hospital or health care facility may apply to the superintendent for a certificate of authority under division (A) of this section to establish and operate a health insuring corporation.

(E) A health insuring corporation shall operate in this state in compliance with this chapter and Chapter 1753. of the Revised Code, ~~and with sections 3702.51 to 3702.62 of the Revised Code,~~ and shall operate in conformity with its filings with the superintendent under this chapter, including filings made pursuant to sections 1751.03, 1751.11, 1751.12, and 1751.31 of the Revised Code.

(F) An insurer licensed under Title XXXIX of the Revised Code need not obtain a certificate of authority as a health insuring corporation to offer an open panel plan as long as the providers

and health care facilities participating in the open panel plan 15109
receive their compensation directly from the insurer. If the 15110
providers and health care facilities participating in the open 15111
panel plan receive their compensation from any person other than 15112
the insurer, or if the insurer offers a closed panel plan, the 15113
insurer must obtain a certificate of authority as a health 15114
insuring corporation. 15115

(G) An intermediary organization need not obtain a 15116
certificate of authority as a health insuring corporation, 15117
regardless of the method of reimbursement to the intermediary 15118
organization, as long as a health insuring corporation or a 15119
self-insured employer maintains the ultimate responsibility to 15120
assure delivery of all health care services required by the 15121
contract between the health insuring corporation and the 15122
subscriber and the laws of this state or between the self-insured 15123
employer and its employees. 15124

Nothing in this section shall be construed to require any 15125
health care facility, provider, health delivery network, or 15126
intermediary organization that contracts with a health insuring 15127
corporation or self-insured employer, regardless of the method of 15128
reimbursement to the health care facility, provider, health 15129
delivery network, or intermediary organization, to obtain a 15130
certificate of authority as a health insuring corporation under 15131
this chapter, unless otherwise provided, in the case of contracts 15132
with a self-insured employer, by operation of the "Employee 15133
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 15134
1001, as amended. 15135

(H) Any health delivery network doing business in this state, 15136
including any health delivery network that is functioning as an 15137
intermediary organization doing business in this state, that is 15138
not required to obtain a certificate of authority under this 15139
chapter shall certify to the superintendent annually, not later 15140

than the first day of July, and shall provide a statement signed 15141
by the highest ranking official which includes the following 15142
information: 15143

(1) The health delivery network's full name and the address 15144
of its principal place of business; 15145

(2) A statement that the health delivery network is not 15146
required to obtain a certificate of authority under this chapter 15147
to conduct its business. 15148

(I) The superintendent shall not issue a certificate of 15149
authority to a health insuring corporation that is a provider 15150
sponsored organization unless all health care plans to be offered 15151
by the health insuring corporation provide basic health care 15152
services. Substantially all of the physicians and hospitals with 15153
ownership or control of the provider sponsored organization, as 15154
defined in section 1751.01 of the Revised Code, shall also be 15155
participating providers for the provision of basic health care 15156
services for health care plans offered by the provider sponsored 15157
organization. If a health insuring corporation that is a provider 15158
sponsored organization offers health care plans that do not 15159
provide basic health care services, the health insuring 15160
corporation shall be deemed, for purposes of section 1751.35 of 15161
the Revised Code, to have failed to substantially comply with this 15162
chapter. 15163

Except as specifically provided in this division and in 15164
division (A) of section 1751.28 of the Revised Code, the 15165
provisions of this chapter shall apply to all health insuring 15166
corporations that are provider sponsored organizations in the same 15167
manner that these provisions apply to all health insuring 15168
corporations that are not provider sponsored organizations. 15169

(J) Nothing in this section shall be construed to apply to 15170
any multiple employer welfare arrangement operating pursuant to 15171

Chapter 1739. of the Revised Code. 15172

(K) Any person who violates division (B) of this section, and 15173
any health delivery network that fails to comply with division (H) 15174
of this section, is subject to the penalties set forth in section 15175
1751.45 of the Revised Code. 15176

Sec. 1751.13. (A)(1)(a) A health insuring corporation shall, 15177
either directly or indirectly, enter into contracts for the 15178
provision of health care services with a sufficient number and 15179
types of providers and health care facilities to ensure that all 15180
covered health care services will be accessible to enrollees from 15181
a contracted provider or health care facility. 15182

(b) A health insuring corporation shall not refuse to 15183
contract with a physician for the provision of health care 15184
services or refuse to recognize a physician as a specialist on the 15185
basis that the physician attended an educational program or a 15186
residency program approved or certified by the American 15187
osteopathic association. A health insuring corporation shall not 15188
refuse to contract with a health care facility for the provision 15189
of health care services on the basis that the health care facility 15190
is certified or accredited by the American osteopathic association 15191
or that the health care facility is an osteopathic hospital ~~as~~ 15192
~~defined in section 3702.51 of the Revised Code.~~ 15193

(c) Nothing in division (A)(1)(b) of this section shall be 15194
construed to require a health insuring corporation to make a 15195
benefit payment under a closed panel plan to a physician or health 15196
care facility with which the health insuring corporation does not 15197
have a contract, provided that none of the bases set forth in that 15198
division are used as a reason for failing to make a benefit 15199
payment. 15200

(2) When a health insuring corporation is unable to provide a 15201
covered health care service from a contracted provider or health 15202

care facility, the health insuring corporation must provide that 15203
health care service from a noncontracted provider or health care 15204
facility consistent with the terms of the enrollee's policy, 15205
contract, certificate, or agreement. The health insuring 15206
corporation shall either ensure that the health care service be 15207
provided at no greater cost to the enrollee than if the enrollee 15208
had obtained the health care service from a contracted provider or 15209
health care facility, or make other arrangements acceptable to the 15210
superintendent of insurance. 15211

(3) Nothing in this section shall prohibit a health insuring 15212
corporation from entering into contracts with out-of-state 15213
providers or health care facilities that are licensed, certified, 15214
accredited, or otherwise authorized in that state. 15215

(B)(1) A health insuring corporation shall, either directly 15216
or indirectly, enter into contracts with all providers and health 15217
care facilities through which health care services are provided to 15218
its enrollees. 15219

(2) A health insuring corporation, upon written request, 15220
shall assist its contracted providers in finding stop-loss or 15221
reinsurance carriers. 15222

(C) A health insuring corporation shall file an annual 15223
certificate with the superintendent certifying that all provider 15224
contracts and contracts with health care facilities through which 15225
health care services are being provided contain the following: 15226

(1) A description of the method by which the provider or 15227
health care facility will be notified of the specific health care 15228
services for which the provider or health care facility will be 15229
responsible, including any limitations or conditions on such 15230
services; 15231

(2) The specific hold harmless provision specifying 15232
protection of enrollees set forth as follows: 15233

"[Provider/Health Care Facility] agrees that in no event, 15234
including but not limited to nonpayment by the health insuring 15235
corporation, insolvency of the health insuring corporation, or 15236
breach of this agreement, shall [Provider/Health Care Facility] 15237
bill, charge, collect a deposit from, seek remuneration or 15238
reimbursement from, or have any recourse against, a subscriber, 15239
enrollee, person to whom health care services have been provided, 15240
or person acting on behalf of the covered enrollee, for health 15241
care services provided pursuant to this agreement. This does not 15242
prohibit [Provider/Health Care Facility] from collecting 15243
co-insurance, deductibles, or copayments as specifically provided 15244
in the evidence of coverage, or fees for uncovered health care 15245
services delivered on a fee-for-service basis to persons 15246
referenced above, nor from any recourse against the health 15247
insuring corporation or its successor." 15248

(3) Provisions requiring the provider or health care facility 15249
to continue to provide covered health care services to enrollees 15250
in the event of the health insuring corporation's insolvency or 15251
discontinuance of operations. The provisions shall require the 15252
provider or health care facility to continue to provide covered 15253
health care services to enrollees as needed to complete any 15254
medically necessary procedures commenced but unfinished at the 15255
time of the health insuring corporation's insolvency or 15256
discontinuance of operations. The completion of a medically 15257
necessary procedure shall include the rendering of all covered 15258
health care services that constitute medically necessary follow-up 15259
care for that procedure. If an enrollee is receiving necessary 15260
inpatient care at a hospital, the provisions may limit the 15261
required provision of covered health care services relating to 15262
that inpatient care in accordance with division (D)(3) of section 15263
1751.11 of the Revised Code, and may also limit such required 15264
provision of covered health care services to the period ending 15265
thirty days after the health insuring corporation's insolvency or 15266

discontinuance of operations. 15267

The provisions required by division (C)(3) of this section 15268
shall not require any provider or health care facility to continue 15269
to provide any covered health care service after the occurrence of 15270
any of the following: 15271

(a) The end of the thirty-day period following the entry of a 15272
liquidation order under Chapter 3903. of the Revised Code; 15273

(b) The end of the enrollee's period of coverage for a 15274
contractual prepayment or premium; 15275

(c) The enrollee obtains equivalent coverage with another 15276
health insuring corporation or insurer, or the enrollee's employer 15277
obtains such coverage for the enrollee; 15278

(d) The enrollee or the enrollee's employer terminates 15279
coverage under the contract; 15280

(e) A liquidator effects a transfer of the health insuring 15281
corporation's obligations under the contract under division (A)(8) 15282
of section 3903.21 of the Revised Code. 15283

(4) A provision clearly stating the rights and 15284
responsibilities of the health insuring corporation, and of the 15285
contracted providers and health care facilities, with respect to 15286
administrative policies and programs, including, but not limited 15287
to, payments systems, utilization review, quality assurance, 15288
assessment, and improvement programs, credentialing, 15289
confidentiality requirements, and any applicable federal or state 15290
programs; 15291

(5) A provision regarding the availability and 15292
confidentiality of those health records maintained by providers 15293
and health care facilities to monitor and evaluate the quality of 15294
care, to conduct evaluations and audits, and to determine on a 15295
concurrent or retrospective basis the necessity of and 15296

appropriateness of health care services provided to enrollees. The 15297
provision shall include terms requiring the provider or health 15298
care facility to make these health records available to 15299
appropriate state and federal authorities involved in assessing 15300
the quality of care or in investigating the grievances or 15301
complaints of enrollees, and requiring the provider or health care 15302
facility to comply with applicable state and federal laws related 15303
to the confidentiality of medical or health records. 15304

(6) A provision that states that contractual rights and 15305
responsibilities may not be assigned or delegated by the provider 15306
or health care facility without the prior written consent of the 15307
health insuring corporation; 15308

(7) A provision requiring the provider or health care 15309
facility to maintain adequate professional liability and 15310
malpractice insurance. The provision shall also require the 15311
provider or health care facility to notify the health insuring 15312
corporation not more than ten days after the provider's or health 15313
care facility's receipt of notice of any reduction or cancellation 15314
of such coverage. 15315

(8) A provision requiring the provider or health care 15316
facility to observe, protect, and promote the rights of enrollees 15317
as patients; 15318

(9) A provision requiring the provider or health care 15319
facility to provide health care services without discrimination on 15320
the basis of a patient's participation in the health care plan, 15321
age, sex, ethnicity, religion, sexual preference, health status, 15322
or disability, and without regard to the source of payments made 15323
for health care services rendered to a patient. This requirement 15324
shall not apply to circumstances when the provider or health care 15325
facility appropriately does not render services due to limitations 15326
arising from the provider's or health care facility's lack of 15327
training, experience, or skill, or due to licensing restrictions. 15328

(10) A provision containing the specifics of any obligation 15329
on the primary care provider to provide, or to arrange for the 15330
provision of, covered health care services twenty-four hours per 15331
day, seven days per week; 15332

(11) A provision setting forth procedures for the resolution 15333
of disputes arising out of the contract; 15334

(12) A provision stating that the hold harmless provision 15335
required by division (C)(2) of this section shall survive the 15336
termination of the contract with respect to services covered and 15337
provided under the contract during the time the contract was in 15338
effect, regardless of the reason for the termination, including 15339
the insolvency of the health insuring corporation; 15340

(13) A provision requiring those terms that are used in the 15341
contract and that are defined by this chapter, be used in the 15342
contract in a manner consistent with those definitions. 15343

This division does not apply to the coverage of beneficiaries 15344
enrolled in medicare pursuant to a medicare risk contract or 15345
medicare cost contract, or to the coverage of beneficiaries 15346
enrolled in the federal employee health benefits program pursuant 15347
to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or 15348
to the coverage of beneficiaries under any federal health care 15349
program regulated by a federal regulatory body, or to the coverage 15350
of beneficiaries under any contract covering officers or employees 15351
of the state that has been entered into by the department of 15352
administrative services. 15353

(D)(1) No health insuring corporation contract with a 15354
provider or health care facility shall contain any of the 15355
following: 15356

(a) A provision that directly or indirectly offers an 15357
inducement to the provider or health care facility to reduce or 15358
limit medically necessary health care services to a covered 15359

| | |
|---|--|
| enrollee; | 15360 |
| (b) A provision that penalizes a provider or health care facility that assists an enrollee to seek a reconsideration of the health insuring corporation's decision to deny or limit benefits to the enrollee; | 15361 15362 15363 15364 |
| (c) A provision that limits or otherwise restricts the provider's or health care facility's ethical and legal responsibility to fully advise enrollees about their medical condition and about medically appropriate treatment options; | 15365 15366 15367 15368 |
| (d) A provision that penalizes a provider or health care facility for principally advocating for medically necessary health care services; | 15369 15370 15371 |
| (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. | 15372 15373 15374 15375 15376 15377 15378 15379 |
| (f) A provision that violates Chapter 3963. of the Revised Code. | 15380 15381 |
| (2) Nothing in this division shall be construed to prohibit a health insuring corporation from doing either of the following: | 15382 15383 |
| (a) Making a determination not to reimburse or pay for a particular medical treatment or other health care service; | 15384 15385 |
| (b) Enforcing reasonable peer review or utilization review protocols, or determining whether a particular provider or health care facility has complied with these protocols. | 15386 15387 15388 |
| (E) Any contract between a health insuring corporation and an | 15389 |

intermediary organization shall clearly specify that the health 15390
insuring corporation must approve or disapprove the participation 15391
of any provider or health care facility with which the 15392
intermediary organization contracts. 15393

(F) If an intermediary organization that is not a health 15394
delivery network contracting solely with self-insured employers 15395
subcontracts with a provider or health care facility, the 15396
subcontract with the provider or health care facility shall do all 15397
of the following: 15398

(1) Contain the provisions required by divisions (C) and (G) 15399
of this section, as made applicable to an intermediary 15400
organization, without the inclusion of inducements or penalties 15401
described in division (D) of this section; 15402

(2) Acknowledge that the health insuring corporation is a 15403
third-party beneficiary to the agreement; 15404

(3) Acknowledge the health insuring corporation's role in 15405
approving the participation of the provider or health care 15406
facility, pursuant to division (E) of this section. 15407

(G) Any provider contract or contract with a health care 15408
facility shall clearly specify the health insuring corporation's 15409
statutory responsibility to monitor and oversee the offering of 15410
covered health care services to its enrollees. 15411

(H)(1) A health insuring corporation shall maintain its 15412
provider contracts and its contracts with health care facilities 15413
at one or more of its places of business in this state, and shall 15414
provide copies of these contracts to facilitate regulatory review 15415
upon written notice by the superintendent of insurance. 15416

(2) Any contract with an intermediary organization that 15417
accepts compensation shall include provisions requiring the 15418
intermediary organization to provide the superintendent with 15419
regulatory access to all books, records, financial information, 15420

and documents related to the provision of health care services to 15421
subscribers and enrollees under the contract. The contract shall 15422
require the intermediary organization to maintain such books, 15423
records, financial information, and documents at its principal 15424
place of business in this state and to preserve them for at least 15425
three years in a manner that facilitates regulatory review. 15426

(I)(1) A health insuring corporation shall notify its 15427
affected enrollees of the termination of a contract for the 15428
provision of health care services between the health insuring 15429
corporation and a primary care physician or hospital, by mail, 15430
within thirty days after the termination of the contract. 15431

(a) Notice shall be given to subscribers of the termination 15432
of a contract with a primary care physician if the subscriber, or 15433
a dependent covered under the subscriber's health care coverage, 15434
has received health care services from the primary care physician 15435
within the previous twelve months or if the subscriber or 15436
dependent has selected the physician as the subscriber's or 15437
dependent's primary care physician within the previous twelve 15438
months. 15439

(b) Notice shall be given to subscribers of the termination 15440
of a contract with a hospital if the subscriber, or a dependent 15441
covered under the subscriber's health care coverage, has received 15442
health care services from that hospital within the previous twelve 15443
months. 15444

(2) The health insuring corporation shall pay, in accordance 15445
with the terms of the contract, for all covered health care 15446
services rendered to an enrollee by a primary care physician or 15447
hospital between the date of the termination of the contract and 15448
five days after the notification of the contract termination is 15449
mailed to a subscriber at the subscriber's last known address. 15450

(J) Divisions (A) and (B) of this section do not apply to any 15451

health insuring corporation that, on June 4, 1997, holds a 15452
certificate of authority or license to operate under Chapter 1740. 15453
of the Revised Code. 15454

(K) Nothing in this section shall restrict the governing body 15455
of a hospital from exercising the authority granted it pursuant to 15456
section 3701.351 of the Revised Code. 15457

Sec. 1761.26. Whenever the approval of the superintendent of 15458
credit unions is required under this chapter, or under an order or 15459
supervisory action issued or taken under this chapter, for a 15460
person to serve as an organizer, incorporator, director, or 15461
executive officer of a credit union share guaranty corporation, or 15462
to otherwise participate in the management of such a corporation, 15463
the superintendent shall request the superintendent of the bureau 15464
of criminal identification and investigation, or a vendor approved 15465
by the bureau, to conduct a criminal records check based on the 15466
person's fingerprints in accordance with ~~division (A)(14) of~~ 15467
section 109.572 of the Revised Code. The superintendent of credit 15468
unions shall request that criminal record information from the 15469
federal bureau of investigation be obtained as part of the 15470
criminal records check. Any fee required under division (C)(3) of 15471
section 109.572 of the Revised Code shall be paid by the person 15472
who is the subject of the request. 15473

Sec. 1901.18. (A) Except as otherwise provided in this 15474
division or section 1901.181 of the Revised Code, subject to the 15475
monetary jurisdiction of municipal courts as set forth in section 15476
1901.17 of the Revised Code, a municipal court has original 15477
jurisdiction within its territory in all of the following actions 15478
or proceedings and to perform all of the following functions: 15479

(1) In any civil action, of whatever nature or remedy, of 15480
which judges of county courts have jurisdiction; 15481

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| (2) In any action or proceeding at law for the recovery of money or personal property of which the court of common pleas has jurisdiction; | 15482 15483 15484 |
| (3) In any action at law based on contract, to determine, preserve, and enforce all legal and equitable rights involved in the contract, to decree an accounting, reformation, or cancellation of the contract, and to hear and determine all legal and equitable remedies necessary or proper for a complete determination of the rights of the parties to the contract; | 15485 15486 15487 15488 15489 15490 |
| (4) In any action or proceeding for the sale of personal property under chattel mortgage, lien, encumbrance, or other charge, for the foreclosure and marshalling of liens on personal property of that nature, and for the rendering of personal judgment in the action or proceeding; | 15491 15492 15493 15494 15495 |
| (5) In any action or proceeding to enforce the collection of its own judgments or the judgments rendered by any court within the territory to which the municipal court has succeeded, and to subject the interest of a judgment debtor in personal property to satisfy judgments enforceable by the municipal court; | 15496 15497 15498 15499 15500 |
| (6) In any action or proceeding in the nature of interpleader; | 15501 15502 |
| (7) In any action of replevin; | 15503 |
| (8) In any action of forcible entry and detainer; | 15504 |
| (9) In any action concerning the issuance and enforcement of temporary protection orders pursuant to section 2919.26 of the Revised Code or protection orders pursuant to section 2903.213 of the Revised Code or the enforcement of protection orders issued by courts of another state, as defined in section 2919.27 of the Revised Code; | 15505 15506 15507 15508 15509 15510 |
| (10) If the municipal court has a housing or environmental | 15511 |

division, in any action over which the division is given 15512
jurisdiction by section 1901.181 of the Revised Code, provided 15513
that, except as specified in division (B) of that section, no 15514
judge of the court other than the judge of the division shall hear 15515
or determine any action over which the division has jurisdiction; 15516

(11) In any action brought pursuant to division (I) of 15517
section ~~3733.11~~ 4781.40 of the Revised Code, if the residential 15518
premises that are the subject of the action are located within the 15519
territorial jurisdiction of the court; 15520

(12) In any civil action as described in division (B)(1) of 15521
section 3767.41 of the Revised Code that relates to a public 15522
nuisance, and, to the extent any provision of this chapter 15523
conflicts or is inconsistent with a provision of that section, the 15524
provision of that section shall control in the civil action; 15525

(13) In a proceeding brought pursuant to section 955.222 of 15526
the Revised Code by the owner of a dog that has been designated as 15527
a nuisance dog, dangerous dog, or vicious dog. 15528

(B) The Cleveland municipal court also shall have 15529
jurisdiction within its territory in all of the following actions 15530
or proceedings and to perform all of the following functions: 15531

(1) In all actions and proceedings for the sale of real 15532
property under lien of a judgment of the municipal court or a lien 15533
for machinery, material, or fuel furnished or labor performed, 15534
irrespective of amount, and, in those actions and proceedings, the 15535
court may proceed to foreclose and marshal all liens and all 15536
vested or contingent rights, to appoint a receiver, and to render 15537
personal judgment irrespective of amount in favor of any party. 15538

(2) In all actions for the foreclosure of a mortgage on real 15539
property given to secure the payment of money or the enforcement 15540
of a specific lien for money or other encumbrance or charge on 15541
real property, when the amount claimed by the plaintiff does not 15542

exceed fifteen thousand dollars and the real property is situated 15543
within the territory, and, in those actions, the court may proceed 15544
to foreclose all liens and all vested and contingent rights and 15545
may proceed to render judgments and make findings and orders 15546
between the parties in the same manner and to the same extent as 15547
in similar actions in the court of common pleas. 15548

(3) In all actions for the recovery of real property situated 15549
within the territory to the same extent as courts of common pleas 15550
have jurisdiction; 15551

(4) In all actions for injunction to prevent or terminate 15552
violations of the ordinances and regulations of the city of 15553
Cleveland enacted or promulgated under the police power of the 15554
city of Cleveland, pursuant to Section 3 of Article XVIII, Ohio 15555
Constitution, over which the court of common pleas has or may have 15556
jurisdiction, and, in those actions, the court may proceed to 15557
render judgments and make findings and orders in the same manner 15558
and to the same extent as in similar actions in the court of 15559
common pleas. 15560

Sec. 1909.11. A county court judge has jurisdiction in any 15561
action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 15562
of the Revised Code if the residential premises that are the 15563
subject of the action are located within the territorial 15564
jurisdiction of the judge's county court district. 15565

Sec. 1923.01. (A) As provided in this chapter, any judge of a 15566
county or municipal court or a court of common pleas, within the 15567
judge's proper area of jurisdiction, may inquire about persons who 15568
make unlawful and forcible entry into lands or tenements and 15569
detain them, and about persons who make a lawful and peaceable 15570
entry into lands or tenements and hold them unlawfully and by 15571
force. If, upon the inquiry, it is found that an unlawful and 15572

forcible entry has been made and the lands or tenements are 15573
detained, or that, after a lawful entry, lands or tenements are 15574
held unlawfully and by force, a judge shall cause the plaintiff in 15575
an action under this chapter to have restitution of the lands or 15576
tenements. 15577

(B) An action shall be brought under this chapter within two 15578
years after the cause of action accrues. 15579

(C) As used in this chapter: 15580

(1) "Tenant" means a person who is entitled under a rental 15581
agreement to the use or occupancy of premises, other than premises 15582
located in a manufactured home park, to the exclusion of others, 15583
except that as used in division (A)(6) of section 1923.02 and 15584
section 1923.051 of the Revised Code, "tenant" includes a 15585
manufactured home park resident. 15586

(2) "Landlord" means the owner, lessor, or sublessor of 15587
premises, or the agent or person the landlord authorizes to manage 15588
premises or to receive rent from a tenant under a rental 15589
agreement, except, if required by the facts of the action to which 15590
the term is applied, "landlord" means a park operator. 15591

(3) "Resident" has the same meaning as in section ~~3733.01~~ 15592
4781.01 of the Revised Code. 15593

(4) "Residential premises" has the same meaning as in section 15594
5321.01 of the Revised Code, except, if required by the facts of 15595
the action to which the term is applied, "residential premises" 15596
has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised 15597
Code. 15598

(5) "Rental agreement" means any agreement or lease, written 15599
or oral, that establishes or modifies the terms, conditions, 15600
rules, or other provisions concerning the use or occupancy of 15601
premises by one of the parties to the agreement or lease, except 15602
that "rental agreement," as used in division (A)(13) of section 15603

1923.02 of the Revised Code and where the context requires as used 15604
in this chapter, means a rental agreement as defined in division 15605
(D) of section 5322.01 of the Revised Code. 15606

(6) "Controlled substance" has the same meaning as in section 15607
3719.01 of the Revised Code. 15608

(7) "School premises" has the same meaning as in section 15609
2925.01 of the Revised Code. 15610

(8) "Sexually oriented offense" and "child-victim oriented 15611
offense" have the same meanings as in section 2950.01 of the 15612
Revised Code. 15613

(9) "Recreational vehicle" and "mobile home" have the same 15614
meanings as in section 4501.01 of the Revised Code. 15615

(10) "Manufactured home" has the same meaning as in section 15616
3781.06 of the Revised Code. 15617

(11) "Manufactured home park" has the same meaning as in 15618
section ~~3733.01~~ 4781.01 of the Revised Code and also means any 15619
tract of land upon which one or two manufactured or mobile homes 15620
used for habitation are parked, either free of charge or for 15621
revenue purposes, pursuant to rental agreements between the owners 15622
of the manufactured or mobile homes and the owner of the tract of 15623
land. 15624

(12) "Park operator" has the same meaning as in section 15625
~~3733.01~~ 4781.01 of the Revised Code and also means a landlord of 15626
premises upon which one or two manufactured or mobile homes used 15627
for habitation are parked, either free of charge or for revenue 15628
purposes, pursuant to rental agreements between the owners of the 15629
manufactured or mobile homes and a landlord who is not licensed as 15630
a manufactured home park operator pursuant to Chapter ~~3733.~~ 4781. 15631
of the Revised Code. 15632

(13) "Personal property" means tangible personal property 15633

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| other than a manufactured home, mobile home, or recreational | 15634 |
| vehicle that is the subject of an action under this chapter. | 15635 |
| (14) "Preschool or child day-care center premises" has the | 15636 |
| same meaning as in section 2950.034 of the Revised Code. | 15637 |
| Sec. 1923.02. (A) Proceedings under this chapter may be had | 15638 |
| as follows: | 15639 |
| (1) Against tenants or manufactured home park residents | 15640 |
| holding over their terms; | 15641 |
| (2) Against tenants or manufactured home park residents in | 15642 |
| possession under an oral tenancy, who are in default in the | 15643 |
| payment of rent as provided in division (B) of this section; | 15644 |
| (3) In sales of real estate, on executions, orders, or other | 15645 |
| judicial process, when the judgment debtor was in possession at | 15646 |
| the time of the rendition of the judgment or decree, by virtue of | 15647 |
| which the sale was made; | 15648 |
| (4) In sales by executors, administrators, or guardians, and | 15649 |
| on partition, when any of the parties to the complaint were in | 15650 |
| possession at the commencement of the action, after the sales, so | 15651 |
| made on execution or otherwise, have been examined by the proper | 15652 |
| court and adjudged legal; | 15653 |
| (5) When the defendant is an occupier of lands or tenements, | 15654 |
| without color of title, and the complainant has the right of | 15655 |
| possession to them; | 15656 |
| (6) In any other case of the unlawful and forcible detention | 15657 |
| of lands or tenements. For purposes of this division, in addition | 15658 |
| to any other type of unlawful and forcible detention of lands or | 15659 |
| tenements, such a detention may be determined to exist when both | 15660 |
| of the following apply: | 15661 |
| (a) A tenant fails to vacate residential premises within | 15662 |
| three days after both of the following occur: | 15663 |

(i) The tenant's landlord has actual knowledge of or has 15664
reasonable cause to believe that the tenant, any person in the 15665
tenant's household, or any person on the premises with the consent 15666
of the tenant previously has or presently is engaged in a 15667
violation of Chapter 2925. or 3719. of the Revised Code, or of a 15668
municipal ordinance that is substantially similar to any section 15669
in either of those chapters, which involves a controlled substance 15670
and which occurred in, is occurring in, or otherwise was or is 15671
connected with the premises, whether or not the tenant or other 15672
person has been charged with, has pleaded guilty to or been 15673
convicted of, or has been determined to be a delinquent child for 15674
an act that, if committed by an adult, would be a violation as 15675
described in this division. For purposes of this division, a 15676
landlord has "actual knowledge of or has reasonable cause to 15677
believe" that a tenant, any person in the tenant's household, or 15678
any person on the premises with the consent of the tenant 15679
previously has or presently is engaged in a violation as described 15680
in this division if a search warrant was issued pursuant to 15681
Criminal Rule 41 or Chapter 2933. of the Revised Code; the 15682
affidavit presented to obtain the warrant named or described the 15683
tenant or person as the individual to be searched and particularly 15684
described the tenant's premises as the place to be searched, named 15685
or described one or more controlled substances to be searched for 15686
and seized, stated substantially the offense under Chapter 2925. 15687
or 3719. of the Revised Code or the substantially similar 15688
municipal ordinance that occurred in, is occurring in, or 15689
otherwise was or is connected with the tenant's premises, and 15690
states the factual basis for the affiant's belief that the 15691
controlled substances are located on the tenant's premises; the 15692
warrant was properly executed by a law enforcement officer and any 15693
controlled substance described in the affidavit was found by that 15694
officer during the search and seizure; and, subsequent to the 15695
search and seizure, the landlord was informed by that or another 15696

law enforcement officer of the fact that the tenant or person has 15697
or presently is engaged in a violation as described in this 15698
division and it occurred in, is occurring in, or otherwise was or 15699
is connected with the tenant's premises. 15700

(ii) The landlord gives the tenant the notice required by 15701
division (C) of section 5321.17 of the Revised Code. 15702

(b) The court determines, by a preponderance of the evidence, 15703
that the tenant, any person in the tenant's household, or any 15704
person on the premises with the consent of the tenant previously 15705
has or presently is engaged in a violation as described in 15706
division (A)(6)(a)(i) of this section. 15707

(7) In cases arising out of Chapter 5313. of the Revised 15708
Code. In those cases, the court has the authority to declare a 15709
forfeiture of the vendee's rights under a land installment 15710
contract and to grant any other claims arising out of the 15711
contract. 15712

(8) Against tenants who have breached an obligation that is 15713
imposed by section 5321.05 of the Revised Code, other than the 15714
obligation specified in division (A)(9) of that section, and that 15715
materially affects health and safety. Prior to the commencement of 15716
an action under this division, notice shall be given to the tenant 15717
and compliance secured with section 5321.11 of the Revised Code. 15718

(9) Against tenants who have breached an obligation imposed 15719
upon them by a written rental agreement; 15720

(10) Against manufactured home park residents who have 15721
defaulted in the payment of rent or breached the terms of a rental 15722
agreement with a park operator. Nothing in this division precludes 15723
the commencement of an action under division (A)(12) of this 15724
section when the additional circumstances described in that 15725
division apply. 15726

(11) Against manufactured home park residents who have 15727

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 period of thirty consecutive days prior to the commencement of an action under this division and whose manufactured home or mobile home, or recreational vehicle that is parked in the manufactured home park, has been left unoccupied for that thirty-day period, without notice to the park operator and without payment of rent due under the rental agreement with the park operator;

(13) Against occupants of self-service storage facilities, as defined in division (A) of section 5322.01 of the Revised Code, who have breached the terms of a rental agreement or violated section 5322.04 of the Revised Code;

(14) Against any resident or occupant who, pursuant to a rental agreement, resides in or occupies residential premises located within one thousand feet of any school premises or preschool or child day-care center premises and to whom both of the following apply:

(a) The resident's or occupant's name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code.

(b) The state registry of sex offenders and child-victim offenders indicates that the resident or occupant was convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that

offense. 15759

(15) Against any tenant who permits any person to occupy 15760
residential premises located within one thousand feet of any 15761
school premises or preschool or child day-care center premises if 15762
both of the following apply to the person: 15763

(a) The person's name appears on the state registry of sex 15764
offenders and child-victim offenders maintained under section 15765
2950.13 of the Revised Code. 15766

(b) The state registry of sex offenders and child-victim 15767
offenders indicates that the person was convicted of or pleaded 15768
guilty to a sexually oriented offense or a child-victim oriented 15769
offense in a criminal prosecution and was not sentenced to a 15770
serious youthful offender dispositional sentence for that offense. 15771

(B) If a tenant or manufactured home park resident holding 15772
under an oral tenancy is in default in the payment of rent, the 15773
tenant or resident forfeits the right of occupancy, and the 15774
landlord may, at the landlord's option, terminate the tenancy by 15775
notifying the tenant or resident, as provided in section 1923.04 15776
of the Revised Code, to leave the premises, for the restitution of 15777
which an action may then be brought under this chapter. 15778

(C)(1) If a tenant or any other person with the tenant's 15779
permission resides in or occupies residential premises that are 15780
located within one thousand feet of any school premises and is a 15781
resident or occupant of the type described in division (A)(14) of 15782
this section or a person of the type described in division (A)(15) 15783
of this section, the landlord for those residential premises, upon 15784
discovery that the tenant or other person is a resident, occupant, 15785
or person of that nature, may terminate the rental agreement or 15786
tenancy for those residential premises by notifying the tenant and 15787
all other occupants, as provided in section 1923.04 of the Revised 15788
Code, to leave the premises. 15789

(2) If a landlord is authorized to terminate a rental agreement or tenancy pursuant to division (C)(1) of this section but does not so terminate the rental agreement or tenancy, the landlord is not liable in a tort or other civil action in damages for any injury, death, or loss to person or property that allegedly result from that decision.

(D) This chapter does not apply to a student tenant as defined by division (H) of section 5321.01 of the Revised Code when the college or university proceeds to terminate a rental agreement pursuant to section 5321.031 of the Revised Code.

Sec. 1923.061. (A) Any defense in an action under this chapter may be asserted at trial.

(B) In an action for possession of residential premises based upon nonpayment of the rent or in an action for rent when the tenant or manufactured home park resident is in possession, the tenant or resident may counterclaim for any amount ~~he~~ the tenant or resident may recover under the rental agreement or under Chapter ~~3733-~~ 4781. or 5321. of the Revised Code. In that event, the court from time to time may order the tenant or resident to pay into court all or part of the past due rent and rent becoming due during the pendency of the action. After trial and judgment, the party to whom a net judgment is owed shall be paid first from the money paid into court, and any balance shall be satisfied as any other judgment. If no rent remains due after application of this division, judgment shall be entered for the tenant or resident in the action for possession. If the tenant or resident has paid into court an amount greater than that necessary to satisfy a judgment obtained by the landlord, the balance shall be returned by the court to the tenant or resident.

Sec. 1923.15. During any proceeding involving residential

premises under this chapter, the court may order an appropriate 15820
governmental agency to inspect the residential premises. If the 15821
agency determines and the court finds conditions which constitute 15822
a violation of section ~~3733.10~~ 4781.38 or 5321.04 of the Revised 15823
Code, and if the premises have been vacated or are to be restored 15824
to the landlord, the court may issue an order forbidding the 15825
re-rental of the property until such conditions are corrected. If 15826
the agency determines and the court finds such conditions, and if 15827
the court finds that the tenant or manufactured home park resident 15828
may remain in possession, the court may order such conditions 15829
corrected. If such conditions have been caused by the tenant or 15830
resident, the court may award damages to the landlord equal to the 15831
reasonable cost of correcting such conditions. 15832

Sec. 2151.86. (A)(1) The appointing or hiring officer of any 15833
entity that appoints or employs any person responsible for a 15834
child's care in out-of-home care shall request the superintendent 15835
of BCII to conduct a criminal records check with respect to any 15836
person who is under final consideration for appointment or 15837
employment as a person responsible for a child's care in 15838
out-of-home care, except that section 3319.39 of the Revised Code 15839
shall apply instead of this section if the out-of-home care entity 15840
is a public school, educational service center, or chartered 15841
nonpublic school. 15842

(2) At the times specified in this division, the 15843
administrative director of an agency, or attorney, who arranges an 15844
adoption for a prospective adoptive parent shall request the 15845
superintendent of BCII to conduct a criminal records check with 15846
respect to that prospective adoptive parent and a criminal records 15847
check with respect to all persons eighteen years of age or older 15848
who reside with the prospective adoptive parent. The 15849
administrative director or attorney shall request a criminal 15850
records check pursuant to this division at the time of the initial 15851

home study, every four years after the initial home study at the 15852
time of an update, and at the time that an adoptive home study is 15853
completed as a new home study. 15854

(3) Before a recommending agency submits a recommendation to 15855
the department of job and family services on whether the 15856
department should issue a certificate to a foster home under 15857
section 5103.03 of the Revised Code, and every four years 15858
thereafter prior to a recertification under that section, the 15859
administrative director of the agency shall request that the 15860
superintendent of BCII conduct a criminal records check with 15861
respect to the prospective foster caregiver and a criminal records 15862
check with respect to all other persons eighteen years of age or 15863
older who reside with the foster caregiver. 15864

(B)(1) If a person subject to a criminal records check under 15865
division (A)(1) of this section does not present proof that the 15866
person has been a resident of this state for the five-year period 15867
immediately prior to the date upon which the criminal records 15868
check is requested or does not provide evidence that within that 15869
five-year period the superintendent of BCII has requested 15870
information about the person from the federal bureau of 15871
investigation in a criminal records check, the appointing or 15872
hiring officer shall request that the superintendent of BCII 15873
obtain information from the federal bureau of investigation as a 15874
part of the criminal records check, including fingerprint-based 15875
checks of national crime information databases as described in 42 15876
U.S.C. 671. If a person subject to a criminal records check under 15877
division (A)(1) of this section presents proof that the person has 15878
been a resident of this state for that five-year period, the 15879
appointing or hiring officer or attorney may request that the 15880
superintendent of BCII include information from the federal bureau 15881
of investigation in the criminal records check, including 15882
fingerprint-based checks of national crime information databases 15883

as described in 42 U.S.C. 671. 15884

When the administrative director of an agency, or attorney, 15885
who arranges an adoption for a prospective parent requests, at the 15886
time of the initial home study, a criminal records check for a 15887
person pursuant to division (A)(2) of this section, the 15888
administrative director or attorney shall request that the 15889
superintendent of BCII obtain information from the federal bureau 15890
of investigation as part of the criminal records check, including 15891
fingerprint_based checks of national crime information databases 15892
as described in 42 U.S.C. 671, for the person subject to the 15893
criminal records check. In all other cases in which the 15894
administrative director of an agency, or attorney, who arranges an 15895
adoption for a prospective parent requests a criminal records 15896
check for a person pursuant to division (A)(2) of this section, 15897
the administrative director or attorney may request that the 15898
superintendent of BCII include information from the federal bureau 15899
of investigation in the criminal records check, including 15900
fingerprint_based checks of national crime information databases 15901
as described in 42 U.S.C. 671. 15902

When the administrative director of a recommending agency 15903
requests, before submitting a recommendation to the department of 15904
job and family services on whether the department should issue a 15905
certificate to a foster home under section 5103.03 of the Revised 15906
Code, a criminal records check for a person pursuant to division 15907
(A)(3) of this section, the administrative director shall request 15908
that the superintendent of BCII obtain information from the 15909
federal bureau of investigation as part of a criminal records 15910
check, including fingerprint_based checks of national crime 15911
information databases as described in 42 U.S.C. 671, for the 15912
person subject to the criminal records check. In all other cases 15913
in which the administrative director of a recommending agency 15914
requests a criminal records check for a person pursuant to 15915

division (A)(3) of this section, the administrative director may 15916
request that the superintendent of BCII include information from 15917
the federal bureau of investigation in the criminal records check, 15918
including fingerprint-based checks of national crime information 15919
databases as described in 42 U.S.C. 671. 15920

Prior to a hearing on a final decree of adoption or 15921
interlocutory order of adoption by a probate court, the 15922
administrative director of an agency, or an attorney, who arranges 15923
an adoption for a prospective parent shall provide to the clerk of 15924
the probate court either of the following: 15925

(a) Any information received pursuant to a request made under 15926
this division from the superintendent of BCII or the federal 15927
bureau of investigation as part of the criminal records check, 15928
including fingerprint-based checks of national crime information 15929
databases as described in 42 U.S.C. 671, for the person subject to 15930
the criminal records check; 15931

(b) Written notification that the person subject to a 15932
criminal records check pursuant to this division failed upon 15933
request to provide the information necessary to complete the form 15934
or failed to provide impressions of the person's fingerprints as 15935
required under division (B)(2) of this section. 15936

(2) An appointing or hiring officer, administrative director, 15937
or attorney required by division (A) of this section to request a 15938
criminal records check shall provide to each person subject to a 15939
criminal records check a copy of the form prescribed pursuant to 15940
division (C)(1) of section 109.572 of the Revised Code and a 15941
standard impression sheet to obtain fingerprint impressions 15942
prescribed pursuant to division (C)(2) of section 109.572 of the 15943
Revised Code, obtain the completed form and impression sheet from 15944
the person, and forward the completed form and impression sheet to 15945
the superintendent of BCII at the time the criminal records check 15946
is requested. 15947

Any person subject to a criminal records check who receives 15948
pursuant to this division a copy of the form prescribed pursuant 15949
to division (C)(1) of section 109.572 of the Revised Code and a 15950
copy of an impression sheet prescribed pursuant to division (C)(2) 15951
of that section and who is requested to complete the form and 15952
provide a set of fingerprint impressions shall complete the form 15953
or provide all the information necessary to complete the form and 15954
shall provide the impression sheet with the impressions of the 15955
person's fingerprints. If a person subject to a criminal records 15956
check, upon request, fails to provide the information necessary to 15957
complete the form or fails to provide impressions of the person's 15958
fingerprints, the appointing or hiring officer shall not appoint 15959
or employ the person as a person responsible for a child's care in 15960
out-of-home care, a probate court may not issue a final decree of 15961
adoption or an interlocutory order of adoption making the person 15962
an adoptive parent, and the department of job and family services 15963
shall not issue a certificate authorizing the prospective foster 15964
caregiver to operate a foster home. 15965

(C)(1) No appointing or hiring officer shall appoint or 15966
employ a person as a person responsible for a child's care in 15967
out-of-home care, the department of job and family services shall 15968
not issue a certificate under section 5103.03 of the Revised Code 15969
authorizing a prospective foster caregiver to operate a foster 15970
home, and no probate court shall issue a final decree of adoption 15971
or an interlocutory order of adoption making a person an adoptive 15972
parent if the person or, in the case of a prospective foster 15973
caregiver or prospective adoptive parent, any person eighteen 15974
years of age or older who resides with the prospective foster 15975
caregiver or prospective adoptive parent previously has been 15976
convicted of or pleaded guilty to any of the violations described 15977
in division (A)~~(8)~~(5) of section 109.572 of the Revised Code, 15978
unless the person meets rehabilitation standards established in 15979
rules adopted under division (F) of this section. 15980

(2) The appointing or hiring officer may appoint or employ a person as a person responsible for a child's care in out-of-home care conditionally until the criminal records check required by this section is completed and the officer receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the person subject to the criminal records check does not qualify for appointment or employment, the officer shall release the person from appointment or employment.

(3) Prior to certification or recertification under section 5103.03 of the Revised Code, the prospective foster caregiver subject to a criminal records check under division (A)(3) of this section shall notify the recommending agency of the revocation of any foster home license, certificate, or other similar authorization in another state occurring within the five years prior to the date of application to become a foster caregiver in this state. The failure of a prospective foster caregiver to notify the recommending agency of any revocation of that type in another state that occurred within that five-year period shall be grounds for denial of the person's foster home application or the revocation of the person's foster home certification, whichever is applicable. If a person has had a revocation in another state within the five years prior to the date of the application, the department of job and family services shall not issue a foster home certificate to the prospective foster caregiver.

(D) The appointing or hiring officer, administrative director, or attorney shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request pursuant to division (A) of this section. The officer, director, or attorney may charge the person subject to

the criminal records check a fee for the costs the officer, 16013
director, or attorney incurs in obtaining the criminal records 16014
check. A fee charged under this division shall not exceed the 16015
amount of fees the officer, director, or attorney pays for the 16016
criminal records check. If a fee is charged under this division, 16017
the officer, director, or attorney shall notify the person who is 16018
the applicant at the time of the person's initial application for 16019
appointment or employment, an adoption to be arranged, or a 16020
certificate to operate a foster home of the amount of the fee and 16021
that, unless the fee is paid, the person who is the applicant will 16022
not be considered for appointment or employment or as an adoptive 16023
parent or foster caregiver. 16024

(E) The report of any criminal records check conducted by the 16025
bureau of criminal identification and investigation in accordance 16026
with section 109.572 of the Revised Code and pursuant to a request 16027
made under division (A) of this section is not a public record for 16028
the purposes of section 149.43 of the Revised Code and shall not 16029
be made available to any person other than the following: 16030

(1) The person who is the subject of the criminal records 16031
check or the person's representative; 16032

(2) The appointing or hiring officer, administrative 16033
director, or attorney requesting the criminal records check or the 16034
officer's, director's, or attorney's representative; 16035

(3) The department of job and family services, a county 16036
department of job and family services, or a public children 16037
services agency; 16038

(4) Any court, hearing officer, or other necessary individual 16039
involved in a case dealing with the denial of employment, a final 16040
decree of adoption or interlocutory order of adoption, or a foster 16041
home certificate. 16042

(F) The director of job and family services shall adopt rules 16043

in accordance with Chapter 119. of the Revised Code to implement 16044
this section. The rules shall include rehabilitation standards a 16045
person who has been convicted of or pleaded guilty to an offense 16046
listed in division (A)~~(8)~~(5) of section 109.572 of the Revised 16047
Code must meet for an appointing or hiring officer to appoint or 16048
employ the person as a person responsible for a child's care in 16049
out-of-home care, a probate court to issue a final decree of 16050
adoption or interlocutory order of adoption making the person an 16051
adoptive parent, or the department to issue a certificate 16052
authorizing the prospective foster caregiver to operate a foster 16053
home or not revoke a foster home certificate for a violation 16054
specified in section 5103.0328 of the Revised Code. 16055

(G) An appointing or hiring officer, administrative director, 16056
or attorney required by division (A) of this section to request a 16057
criminal records check shall inform each person who is the 16058
applicant, at the time of the person's initial application for 16059
appointment or employment, an adoption to be arranged, or a foster 16060
home certificate, that the person subject to the criminal records 16061
check is required to provide a set of impressions of the person's 16062
fingerprints and that a criminal records check is required to be 16063
conducted and satisfactorily completed in accordance with section 16064
109.572 of the Revised Code. 16065

(H) The department of job and family services may waive the 16066
requirement that a criminal records check based on fingerprints be 16067
conducted for an adult resident of a prospective adoptive or 16068
foster home or the home of a foster caregiver if the recommending 16069
agency documents to the department's satisfaction that the adult 16070
resident is physically unable to comply with the fingerprinting 16071
requirement and poses no danger to foster children or adoptive 16072
children who may be placed in the home. In such cases, the 16073
recommending or approving agency shall request that the bureau of 16074
criminal identification and investigation conduct a criminal 16075

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|---|---|
| records check using the person's name and social security number. | 16076 |
| (I) As used in this section: | 16077 |
| (1) "Children's hospital" means any of the following: | 16078 |
| (a) 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 inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age; | 16079 16080 16081 16082 16083 |
| (b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age; | 16084 16085 16086 16087 16088 16089 16090 |
| (c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (I)(1)(a) of this section. | 16091 16092 16093 16094 |
| (2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. | 16095 16096 |
| (3) "Person responsible for a child's care in out-of-home care" has the same meaning as in section 2151.011 of the Revised Code, except that it does not include a prospective employee of the department of youth services or a person responsible for a child's care in a hospital or medical clinic other than a children's hospital. | 16097 16098 16099 16100 16101 16102 |
| (4) "Person subject to a criminal records check" means the following: | 16103 16104 |
| (a) A person who is under final consideration for appointment | 16105 |

or employment as a person responsible for a child's care in out-of-home care; 16106
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(b) A prospective adoptive parent; 16108

(c) A prospective foster caregiver; 16109

(d) A person eighteen years old or older who resides with a prospective foster caregiver or a prospective adoptive parent. 16110
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(5) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency to which the department of job and family services has delegated a duty to inspect and approve foster homes. 16112
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(6) "Superintendent of BCII" means the superintendent of the bureau of criminal identification and investigation. 16116
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Sec. 2152.121. (A) If a complaint is filed against a child alleging that the child is a delinquent child and the case is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of section 2152.12 of the Revised Code, the juvenile court that transferred the case shall retain jurisdiction for purposes of making disposition of the child when required under division (B) of this section. 16118
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(B) If a complaint is filed against a child alleging that the child is a delinquent child, if the case is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of section 2152.12 of the Revised Code, and if the child subsequently is convicted of or pleads guilty to an offense in that case, the sentence to be imposed or disposition to be made of the child shall be determined as follows: 16125
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(1) The court in which the child is convicted of or pleads guilty to the offense shall determine whether, 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 16132
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if committed by an adult, division (A) of section 2152.12 of the Revised Code would have required mandatory transfer of the case or division (B) of that section would have allowed discretionary transfer of the case. The court shall not consider the factor specified in division (B)(3) of section 2152.12 of the Revised Code in making its determination under this division.

(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 16168
would have allowed discretionary transfer of the case, the court 16169
shall determine the sentence it believes should be imposed upon 16170
the child under Chapter 2929. of the Revised Code, shall impose 16171
that sentence upon the child, and shall stay that sentence pending 16172
completion of the procedures specified in this division. Upon 16173
imposition and staying of the sentence, the court shall transfer 16174
jurisdiction of the case back to the juvenile court that initially 16175
transferred the case and the juvenile court shall proceed in 16176
accordance with this division. In no case may the child waive a 16177
right to a hearing of the type described in division (B)(3)(b) of 16178
this section, regarding a motion filed as described in that 16179
division by the prosecuting attorney in the case. Upon transfer of 16180
jurisdiction of the case back to the juvenile court, both of the 16181
following apply: 16182

(a) Except as otherwise provided in division (B)(3)(b) of 16183
this section, the juvenile court shall impose a serious youthful 16184
offender dispositional sentence upon the child under division 16185
(D)(1) of section 2152.13 of the Revised Code. In imposing the 16186
adult portion of that sentence, the juvenile court shall consider 16187
and give preference to the sentence imposed upon the child by the 16188
court in which the child was convicted of or pleaded guilty to the 16189
offense. Upon imposing a serious youthful offender dispositional 16190
sentence upon the child as described in this division, the 16191
juvenile court shall notify the court in which the child was 16192
convicted of or pleaded guilty to the offense, the sentence 16193
imposed upon the child by that court shall terminate, the court 16194
and all other agencies that have any record of the conviction of 16195
the child shall expunge the conviction or guilty plea and all 16196
records of it, the conviction or guilty plea shall be considered 16197
and treated for all purposes other than as provided in this 16198
section to have never occurred, and the conviction or guilty plea 16199
shall be considered and treated for all purposes other than as 16200

provided in this section to have been a delinquent child 16201
adjudication of the child. 16202

(b) Upon the transfer, the prosecuting attorney in the case 16203
may file a motion in the juvenile court that objects to the 16204
imposition of a serious youthful offender dispositional sentence 16205
upon the child and requests that the sentence imposed upon the 16206
child by the court in which the child was convicted of or pleaded 16207
guilty to the offense be invoked. Upon the filing of a motion 16208
under this division, the juvenile court shall hold a hearing to 16209
determine whether the child is not amenable to care or 16210
rehabilitation within the juvenile system and whether the safety 16211
of the community may require that the child be subject solely to 16212
adult sanctions. If the juvenile court at the hearing finds that 16213
the child is not amenable to care or rehabilitation within the 16214
juvenile system or that the safety of the community may require 16215
that the child be subject solely to adult sanctions, the court 16216
shall grant the motion. Absent such a finding, the juvenile court 16217
shall deny the motion. In making its decision under this division, 16218
the juvenile court shall consider the factors listed in division 16219
(D) of section 2152.12 of the Revised Code as factors indicating 16220
that the motion should be granted, shall consider the factors 16221
listed in division (E) of that section as factors indicating that 16222
the motion should not be granted, and shall consider whether the 16223
applicable factors listed in division (D) of that section outweigh 16224
the applicable factors listed in division (E) of that section. 16225

If the juvenile court grants the motion of the prosecuting 16226
attorney under this division, the juvenile court shall transfer 16227
jurisdiction of the case back to the court in which the child was 16228
convicted of or pleaded guilty to the offense, and the sentence 16229
imposed by that court shall be invoked. If the juvenile court 16230
denies the motion of the prosecuting attorney under this section, 16231
the juvenile court shall impose a serious youthful offender 16232

dispositional sentence upon the child in accordance with division 16233
(B)(3)(a) of this section. 16234

(4) If the court in which the child is convicted of or pleads 16235
guilty to the offense determines under division (B)(1) of this 16236
section that, had a complaint been filed in juvenile court 16237
alleging that the child was a delinquent child for committing an 16238
act that would be that offense if committed by an adult, division 16239
(A) of section 2152.12 of the Revised Code would have required 16240
mandatory transfer of the case, the court shall impose sentence 16241
upon the child under Chapter 2929. of the Revised Code. 16242

Sec. 2152.22. (A) When a child is committed to the legal 16243
custody of the department of youth services under this chapter, 16244
the juvenile court relinquishes control with respect to the child 16245
so committed, except as provided in divisions (B), (C), (D), and 16246
(H) of this section or in sections 2152.82 to 2152.86 of the 16247
Revised Code. Subject to divisions (B), (C), and (D) of this 16248
section, sections 2151.353 and 2151.412 to 2151.421 of the Revised 16249
Code, sections 2152.82 to 2152.86 of the Revised Code, and any 16250
other provision of law that specifies a different duration for a 16251
dispositional order, all other dispositional orders made by the 16252
court under this chapter shall be temporary and shall continue for 16253
a period that is designated by the court in its order, until 16254
terminated or modified by the court or until the child attains 16255
twenty-one years of age. 16256

The department shall not release the child from a department 16257
facility and as a result shall not discharge the child or order 16258
the child's release on supervised release prior to the expiration 16259
of the minimum period specified by the court in division (A)(1) of 16260
section 2152.16 of the Revised Code and any term of commitment 16261
imposed under section 2152.17 of the Revised Code or prior to the 16262
child's attainment of twenty-one years of age, except upon the 16263

order of a court pursuant to division (B), (C), or (D) of this 16264
section or in accordance with section 5139.54 of the Revised Code. 16265

(B)(1) ~~The~~ Unless the court grants judicial release under 16266
division (D)(1)(b) of this section, the court that commits a 16267
delinquent child to the department of youth services may grant 16268
judicial release of the child to court supervision under this 16269
division during the first half of the prescribed minimum term for 16270
which the child was committed to the department or, if the child 16271
was committed to the department until the child attains twenty-one 16272
years of age, during the first half of the prescribed period of 16273
commitment that begins on the first day of commitment and ends on 16274
the child's twenty-first birthday, provided any commitment imposed 16275
under division (A), (B), (C), or (D) of section 2152.17 of the 16276
Revised Code has ended. 16277

(2) If the department desires to release a child during a 16278
period specified in division (B)(1) of this section, it shall 16279
request the court that committed the child to grant a judicial 16280
release of the child to court supervision under this division. 16281
During whichever of those periods is applicable, the child or the 16282
parents of the child also may request that court to grant a 16283
judicial release of the child to court supervision. Upon receipt 16284
of a request for a judicial release to court supervision under 16285
this division from the department, the child, or the child's 16286
parent, or upon its own motion, the court that committed the child 16287
shall do one of the following: approve the release by journal 16288
entry; schedule within thirty days after the request is received a 16289
time for a hearing on whether the child is to be released; or 16290
reject the request by journal entry without conducting a hearing. 16291

If the court rejects an initial request for a release under 16292
this division by the child or the child's parent, the child or the 16293
child's parent may make one additional request for a judicial 16294
release to court supervision within the applicable period. The 16295

additional request may be made no earlier than thirty days after 16296
the filing of the prior request for a judicial release to court 16297
supervision. Upon the filing of a second request for a judicial 16298
release to court supervision, the court shall either approve or 16299
disapprove the release by journal entry or schedule within thirty 16300
days after the request is received a time for a hearing on whether 16301
the child is to be released. 16302

(3) If a court schedules a hearing under division (B)(2) of 16303
this section, it may order the department to deliver the child to 16304
the court on the date set for the hearing and may order the 16305
department to present to the court a report on the child's 16306
progress in the institution to which the child was committed and 16307
recommendations for conditions of supervision of the child by the 16308
court after release. The court may conduct the hearing without the 16309
child being present. The court shall determine at the hearing 16310
whether the child should be granted a judicial release to court 16311
supervision. 16312

If the court approves the release under this division, it 16313
shall order its staff to prepare a written treatment and 16314
rehabilitation plan for the child that may include any conditions 16315
of the child's release that were recommended by the department and 16316
approved by the court. The committing court shall send the 16317
juvenile court of the county in which the child is placed a copy 16318
of the recommended plan. The court of the county in which the 16319
child is placed may adopt the recommended conditions set by the 16320
committing court as an order of the court and may add any 16321
additional consistent conditions it considers appropriate. If a 16322
child is granted a judicial release to court supervision, the 16323
release discharges the child from the custody of the department of 16324
youth services. 16325

(C)(1) The Unless the court grants judicial release under 16326
division (D)(1)(b) of this section, the court that commits a 16327

delinquent child to the department of youth services may grant 16328
judicial release of the child to department of youth services 16329
supervision under this division during the second half of the 16330
prescribed minimum term for which the child was committed to the 16331
department or, if the child was committed to the department until 16332
the child attains twenty-one years of age, during the second half 16333
of the prescribed period of commitment that begins on the first 16334
day of commitment and ends on the child's twenty-first birthday, 16335
provided any commitment imposed under division (A), (B), (C), or 16336
(D) of section 2152.17 of the Revised Code has ended. 16337

(2) If the department desires to release a child during a 16338
period specified in division (C)(1) of this section, it shall 16339
request the court that committed the child to grant a judicial 16340
release to department of youth services supervision. During 16341
whichever of those periods is applicable, the child or the child's 16342
parent also may request the court that committed the child to 16343
grant a judicial release to department of youth services 16344
supervision. Upon receipt of a request for judicial release to 16345
department of youth services supervision, the child, or the 16346
child's parent, or upon its own motion at any time during that 16347
period, the court shall do one of the following: approve the 16348
release by journal entry; schedule a time within thirty days after 16349
receipt of the request for a hearing on whether the child is to be 16350
released; or reject the request by journal entry without 16351
conducting a hearing. 16352

If the court rejects an initial request for release under 16353
this division by the child or the child's parent, the child or the 16354
child's parent may make one or more subsequent requests for a 16355
release within the applicable period, but may make no more than 16356
one request during each period of ninety days that the child is in 16357
a secure department facility after the filing of a prior request 16358
for early release. Upon the filing of a request for release under 16359

this division subsequent to an initial request, the court shall 16360
either approve or disapprove the release by journal entry or 16361
schedule a time within thirty days after receipt of the request 16362
for a hearing on whether the child is to be released. 16363

(3) If a court schedules a hearing under division (C)(2) of 16364
this section, it may order the department to deliver the child to 16365
the court on the date set for the hearing and shall order the 16366
department to present to the court at that time a treatment plan 16367
for the child's post-institutional care. The court may conduct the 16368
hearing without the child being present. The court shall determine 16369
at the hearing whether the child should be granted a judicial 16370
release to department of youth services supervision. 16371

If the court approves the judicial release to department of 16372
youth services supervision, the department shall prepare a written 16373
treatment and rehabilitation plan for the child pursuant to 16374
division (F) of this section that shall include the conditions of 16375
the child's release. It shall send the committing court and the 16376
juvenile court of the county in which the child is placed a copy 16377
of the plan. The court of the county in which the child is placed 16378
may adopt the conditions set by the department as an order of the 16379
court and may add any additional consistent conditions it 16380
considers appropriate, provided that the court may not add any 16381
condition that decreases the level or degree of supervision 16382
specified by the department in its plan, that substantially 16383
increases the financial burden of supervision that will be 16384
experienced by the department, or that alters the placement 16385
specified by the department in its plan. If the court of the 16386
county in which the child is placed adds to the department's plan 16387
any additional conditions, it shall enter those additional 16388
conditions in its journal and shall send to the department a copy 16389
of the journal entry of the additional conditions. 16390

If the court approves the judicial release to department of 16391

youth services supervision, the actual date on which the 16392
department shall release the child is contingent upon the 16393
department finding a suitable placement for the child. If the 16394
child is to be returned to the child's home, the department shall 16395
return the child on the date that the court schedules for the 16396
child's release or shall bear the expense of any additional time 16397
that the child remains in a department facility. If the child is 16398
unable to return to the child's home, the department shall 16399
exercise reasonable diligence in finding a suitable placement for 16400
the child, and the child shall remain in a department facility 16401
while the department finds the suitable placement. 16402

(D)(1) Subject to division (D)(3) of this section, the court 16403
that commits a delinquent child to the department of youth 16404
services may grant judicial release of the child under this 16405
division at any time after the expiration of one of the following 16406
periods of time: 16407

(a) Except as otherwise provided in division (D)(1)(b) of 16408
this section, if the child was committed to the department for a 16409
prescribed minimum period and a maximum period not to exceed the 16410
child's attainment of twenty-one years, the court may grant 16411
judicial release of the child at any time after the expiration of 16412
the prescribed minimum term for which the child was committed to 16413
the department. 16414

(b) If the child was committed to the department for both one 16415
or more definite periods under division (A), (B), (C), or (D) of 16416
section 2152.17 of the Revised Code and a period of the type 16417
described in division (D)(1)(a) of this section, all of the 16418
prescribed minimum periods of commitment imposed under division 16419
(A), (B), (C), or (D) of section 2152.17 of the Revised Code and 16420
the prescribed period of commitment of the type described in 16421
division (D)(1)(a) of this section shall be aggregated for 16422
purposes of this division, and the court may grant judicial 16423

release of the child at any time after the expiration of one year 16424
after the child begins serving the aggregate period of commitment. 16425

(2) If a court grants a judicial release of a child under 16426
division (D)(1) of this section, the release shall be a judicial 16427
release to department of youth services supervision, if the 16428
release is granted during a period described in division (C)(1) of 16429
this section, and the second and third paragraphs of division 16430
(C)(3) of this section apply regarding the release. In all other 16431
cases, the release shall be a judicial release to court 16432
supervision, and the second paragraph of division (B)(3) of this 16433
section applies regarding the release. 16434

(3) A court at the time of making the disposition of a child 16435
shall provide notice in the order of disposition that the judge is 16436
retaining jurisdiction over the child for the purpose of a 16437
possible grant of judicial release of the child under division 16438
(D)(1) of this section. The failure of a court to provide this 16439
notice does not affect the authority of the court to grant a 16440
judicial release under that division and does not constitute 16441
grounds for setting aside the child's delinquent child 16442
adjudication or disposition or for granting any post-adjudication 16443
relief to the child. 16444

(4) The department of youth services, a child committed to 16445
the department, or the parents of the child, during a period 16446
specified in division (D)(1) of this section, may request the 16447
court that committed the child to grant a judicial release of the 16448
child under that division. Upon receipt of a request for judicial 16449
release of a child under this division from the department, the 16450
child, or the child's parent, or upon its own motion, the court 16451
that committed the child shall do one of the following: 16452

(a) Approve the request by journal entry; 16453

(b) Schedule within thirty days after the request is received 16454

a time for a hearing on whether the child is to be released; 16455

(c) Reject the request by journal entry without conducting a 16456
hearing. 16457

If the court rejects an initial request for a release under 16458
this division by the child or the child's parent, division (C)(2) 16459
of this section applies regarding the making of additional 16460
requests. 16461

If the court schedules a hearing under this division to 16462
consider the judicial release, the first paragraph of division 16463
(B)(3) of this section applies regarding the hearing. 16464

(E) If a child is released under division (B), (C), or (D) of 16465
this section and the court of the county in which the child is 16466
placed has reason to believe that the child's department is not in 16467
accordance with the conditions of the child's judicial release, 16468
the court of the county in which the child is placed shall 16469
schedule a time for a hearing to determine whether the child 16470
violated any of the post-release conditions, and, if the child was 16471
released under division (C) of this section or under division (D) 16472
of this section under department supervision, divisions (A) to (E) 16473
of section 5139.52 of the Revised Code apply regarding the child. 16474

If that court determines at the hearing that the child 16475
violated any of the post-release conditions, the court, if it 16476
determines that the violation was a serious violation, may order 16477
the child to be returned to the department for 16478
institutionalization, consistent with the original order of 16479
commitment of the child, or in any case may make any other 16480
disposition of the child authorized by law that the court 16481
considers proper. If the court of the county in which the child is 16482
placed orders the child to be returned to a department of youth 16483
services institution, the time during which the child was held in 16484
a secure department facility prior to the child's judicial release 16485

shall be considered as time served in fulfilling the prescribed 16486
period of institutionalization that is applicable to the child 16487
under the child's original order of commitment. If the court 16488
orders the child returned to a department institution, the child 16489
shall remain in institutional care for a minimum of three months 16490
or until the child successfully completes a revocation program of 16491
a duration of not less than thirty days operated either by the 16492
department or by an entity with which the department has 16493
contracted to provide a revocation program. 16494

(F) The department of youth services, prior to the release of 16495
a child pursuant to division (C) of this section or pursuant to 16496
division (D) of this section on department supervision, shall do 16497
all of the following: 16498

(1) After reviewing the child's rehabilitative progress 16499
history and medical and educational records, prepare a written 16500
treatment and rehabilitation plan for the child that includes 16501
conditions of the release; 16502

(2) Completely discuss the conditions of the plan prepared 16503
pursuant to division (F)(1) of this section and the possible 16504
penalties for violation of the plan with the child and the child's 16505
parents, guardian, or legal custodian; 16506

(3) Have the plan prepared pursuant to division (F)(1) of 16507
this section signed by the child, the child's parents, legal 16508
guardian, or custodian, and any authority or person that is to 16509
supervise, control, and provide supportive assistance to the child 16510
at the time of the child's release pursuant to division (C) or (D) 16511
of this section; 16512

(4) Prior to the child's release, file a copy of the 16513
treatment plan prepared pursuant to division (F)(1) of this 16514
section with the committing court and the juvenile court of the 16515
county in which the child is to be placed. 16516

(G) The department of youth services shall file a written progress report with the committing court regarding each child released pursuant to division (C) of this section or released pursuant to division (D) of this section on judicial release to department supervision at least once every thirty days unless specifically directed otherwise by the court. The report shall indicate the treatment and rehabilitative progress of the child and the child's family, if applicable, and shall include any suggestions for altering the program, custody, living arrangements, or treatment. The department shall retain legal custody of a child so released until it discharges the child or until the custody is terminated as otherwise provided by law.

(H) When a child is committed to the legal custody of the department of youth services, the court retains jurisdiction to perform the functions specified in section 5139.51 of the Revised Code with respect to the granting of supervised release by the release authority and to perform the functions specified in section 5139.52 of the Revised Code with respect to violations of the conditions of supervised release granted by the release authority and to the revocation of supervised release granted by the release authority.

Sec. 2301.03. (A) In Franklin county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1953, January 5, 1969, January 5, 1977, and January 2, 1997, 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 Franklin 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 under Chapter 3111. of the Revised Code over which the juvenile

court has jurisdiction, and all divorce, dissolution of marriage, 16549
legal separation, and annulment cases shall be assigned to them. 16550
In addition to the judge's regular duties, the judge who is senior 16551
in point of service shall serve on the children services board and 16552
the county advisory board and shall be the administrator of the 16553
domestic relations division and its subdivisions and departments. 16554
16555

(B) In Hamilton county: 16556

(1) The judge of the court of common pleas, whose term begins 16557
on January 1, 1957, and successors, and the judge of the court of 16558
common pleas, whose term begins on February 14, 1967, and 16559
successors, shall be the juvenile judges as provided in Chapters 16560
2151. and 2152. of the Revised Code, with the powers and 16561
jurisdiction conferred by those chapters. 16562

(2) The judges of the court of common pleas whose terms begin 16563
on January 5, 1957, January 16, 1981, and July 1, 1991, and 16564
successors, shall be elected and designated as judges of the court 16565
of common pleas, division of domestic relations, and shall have 16566
assigned to them all divorce, dissolution of marriage, legal 16567
separation, and annulment cases coming before the court. On or 16568
after the first day of July and before the first day of August of 16569
1991 and each year thereafter, a majority of the judges of the 16570
division of domestic relations shall elect one of the judges of 16571
the division as administrative judge of that division. If a 16572
majority of the judges of the division of domestic relations are 16573
unable for any reason to elect an administrative judge for the 16574
division before the first day of August, a majority of the judges 16575
of the Hamilton county court of common pleas, as soon as possible 16576
after that date, shall elect one of the judges of the division of 16577
domestic relations as administrative judge of that division. The 16578
term of the administrative judge shall begin on the earlier of the 16579
first day of August of the year in which the administrative judge 16580

is elected or the date on which the administrative judge is 16581
elected by a majority of the judges of the Hamilton county court 16582
of common pleas and shall terminate on the date on which the 16583
administrative judge's successor is elected in the following year. 16584

In addition to the judge's regular duties, the administrative 16585
judge of the division of domestic relations shall be the 16586
administrator of the domestic relations division and its 16587
subdivisions and departments and shall have charge of the 16588
employment, assignment, and supervision of the personnel of the 16589
division engaged in handling, servicing, or investigating divorce, 16590
dissolution of marriage, legal separation, and annulment cases, 16591
including any referees considered necessary by the judges in the 16592
discharge of their various duties. 16593

The administrative judge of the division of domestic 16594
relations also shall designate the title, compensation, expense 16595
allowances, hours, leaves of absence, and vacations of the 16596
personnel of the division, and shall fix the duties of its 16597
personnel. The duties of the personnel, in addition to those 16598
provided for in other sections of the Revised Code, shall include 16599
the handling, servicing, and investigation of divorce, dissolution 16600
of marriage, legal separation, and annulment cases and counseling 16601
and conciliation services that may be made available to persons 16602
requesting them, whether or not the persons are parties to an 16603
action pending in the division. 16604

The board of county commissioners shall appropriate the sum 16605
of money each year as will meet all the administrative expenses of 16606
the division of domestic relations, including reasonable expenses 16607
of the domestic relations judges and the division counselors and 16608
other employees designated to conduct the handling, servicing, and 16609
investigation of divorce, dissolution of marriage, legal 16610
separation, and annulment cases, conciliation and counseling, and 16611
all matters relating to those cases and counseling, and the 16612

expenses involved in the attendance of division personnel at 16613
domestic relations and welfare conferences designated by the 16614
division, and the further sum each year as will provide for the 16615
adequate operation of the division of domestic relations. 16616

The compensation and expenses of all employees and the salary 16617
and expenses of the judges shall be paid by the county treasurer 16618
from the money appropriated for the operation of the division, 16619
upon the warrant of the county auditor, certified to by the 16620
administrative judge of the division of domestic relations. 16621

The summonses, warrants, citations, subpoenas, and other 16622
writs of the division may issue to a bailiff, constable, or staff 16623
investigator of the division or to the sheriff of any county or 16624
any marshal, constable, or police officer, and the provisions of 16625
law relating to the subpoenaing of witnesses in other cases shall 16626
apply insofar as they are applicable. When a summons, warrant, 16627
citation, subpoena, or other writ is issued to an officer, other 16628
than a bailiff, constable, or staff investigator of the division, 16629
the expense of serving it shall be assessed as a part of the costs 16630
in the case involved. 16631

(3) The judge of the court of common pleas of Hamilton county 16632
whose term begins on January 3, 1997, and the successors to that 16633
judge shall each be elected and designated as the drug court judge 16634
of the court of common pleas of Hamilton county. The drug court 16635
judge may accept or reject any case referred to the drug court 16636
judge under division (B)(3) of this section. After the drug court 16637
judge accepts a referred case, the drug court judge has full 16638
authority over the case, including the authority to conduct 16639
arraignment, accept pleas, enter findings and dispositions, 16640
conduct trials, order treatment, and if treatment is not 16641
successfully completed pronounce and enter sentence. 16642

A judge of the general division of the court of common pleas 16643
of Hamilton county and a judge of the Hamilton county municipal 16644

court may refer to the drug court judge any case, and any 16645
companion cases, the judge determines meet the criteria described 16646
under divisions (B)(3)(a) and (b) of this section. If the drug 16647
court judge accepts referral of a referred case, the case, and any 16648
companion cases, shall be transferred to the drug court judge. A 16649
judge may refer a case meeting the criteria described in divisions 16650
(B)(3)(a) and (b) of this section that involves a violation of a 16651
condition of a community control sanction to the drug court judge, 16652
and, if the drug court judge accepts the referral, the referring 16653
judge and the drug court judge have concurrent jurisdiction over 16654
the case. 16655

A judge of the general division of the court of common pleas 16656
of Hamilton county and a judge of the Hamilton county municipal 16657
court may refer a case to the drug court judge under division 16658
(B)(3) of this section if the judge determines that both of the 16659
following apply: 16660

(a) One of the following applies: 16661

(i) The case involves a drug abuse offense, as defined in 16662
section 2925.01 of the Revised Code, that is a felony of the third 16663
or fourth degree if the offense is committed prior to July 1, 16664
1996, a felony of the third, fourth, or fifth degree if the 16665
offense is committed on or after July 1, 1996, or a misdemeanor. 16666

(ii) The case involves a theft offense, as defined in section 16667
2913.01 of the Revised Code, that is a felony of the third or 16668
fourth degree if the offense is committed prior to July 1, 1996, a 16669
felony of the third, fourth, or fifth degree if the offense is 16670
committed on or after July 1, 1996, or a misdemeanor, and the 16671
defendant is drug or alcohol dependent or in danger of becoming 16672
drug or alcohol dependent and would benefit from treatment. 16673

(b) All of the following apply: 16674

(i) The case involves an offense for which a community 16675

control sanction may be imposed or is a case in which a mandatory
prison term or a mandatory jail term is not required to be
imposed.

(ii) The defendant has no history of violent behavior.

(iii) The defendant has no history of mental illness.

(iv) The defendant's current or past behavior, or both, is
drug or alcohol driven.

(v) The defendant demonstrates a sincere willingness to
participate in a fifteen-month treatment process.

(vi) The defendant has no acute health condition.

(vii) If the defendant is incarcerated, the county prosecutor
approves of the referral.

(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.

(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.

(C)(1) In Lorain county:

(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 16706
begins on February 9, 2009, shall have the same qualifications, 16707
exercise the same powers and jurisdiction, and receive the same 16708
compensation as the other judges of the court of common pleas of 16709
Lorain county and shall be elected and designated as the judges of 16710
the court of common pleas, division of domestic relations. The 16711
judges of the court of common pleas whose terms begin on January 16712
3, 1959, January 4, 1989, and January 2, 1999, and successors, 16713
shall have all of the powers relating to juvenile courts, and all 16714
cases under Chapters 2151. and 2152. of the Revised Code, all 16715
parentage proceedings over which the juvenile court has 16716
jurisdiction, and all divorce, dissolution of marriage, legal 16717
separation, and annulment cases shall be assigned to them, except 16718
cases that for some special reason are assigned to some other 16719
judge of the court of common pleas. From February 9, 2009, through 16720
September 28, 2009, the judge of the court of common pleas whose 16721
term begins on February 9, 2009, shall have all the powers 16722
relating to juvenile courts, and cases under Chapters 2151. and 16723
2152. of the Revised Code, parentage proceedings over which the 16724
juvenile court has jurisdiction, and divorce, dissolution of 16725
marriage, legal separation, and annulment cases shall be assigned 16726
to that judge, except cases that for some special reason are 16727
assigned to some other judge of the court of common pleas. 16728

(b) From January 1, 2006, through September 28, 2009, the 16729
judges of the court of common pleas, division of domestic 16730
relations, in addition to the powers and jurisdiction set forth in 16731
division (C)(1)(a) of this section, shall have jurisdiction over 16732
matters that are within the jurisdiction of the probate court 16733
under Chapter 2101. and other provisions of the Revised Code. 16734

(c) The judge of the court of common pleas, division of 16735
domestic relations, whose term begins on February 9, 2009, is the 16736
successor to the probate judge who was elected in 2002 for a term 16737

that began on February 9, 2003. After September 28, 2009, the judge of the court of common pleas, division of domestic relations, whose term begins on February 9, 2009, shall be the probate judge.

(2)(a) From February 9, 2009, through September 28, 2009, with respect to Lorain county, all references in law to the probate court shall be construed as references to the court of common pleas, division of domestic relations, and all references to the probate judge shall be construed as references to the judges of the court of common pleas, division of domestic relations.

(b) From February 9, 2009, through September 28, 2009, with respect to Lorain county, all references in law to the clerk of the probate court shall be construed as 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, division of domestic relations.

(D) In Lucas county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1955, and January 3, 1965, 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 Lucas county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. All divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them.

The judge of the division of domestic relations, senior in point of service, shall be considered as the presiding judge of the court of common pleas, division of domestic relations, and shall be charged exclusively with the assignment and division of the work of the division and the employment and supervision of all

other personnel of the domestic relations division. 16769

(2) The judges of the court of common pleas whose terms begin 16770
on January 5, 1977, and January 2, 1991, and successors shall have 16771
the same qualifications, exercise the same powers and 16772
jurisdiction, and receive the same compensation as other judges of 16773
the court of common pleas of Lucas county, shall be elected and 16774
designated as judges of the court of common pleas, juvenile 16775
division, and shall be the juvenile judges as provided in Chapters 16776
2151. and 2152. of the Revised Code with the powers and 16777
jurisdictions conferred by those chapters. In addition to the 16778
judge's regular duties, the judge of the court of common pleas, 16779
juvenile division, senior in point of service, shall be the 16780
administrator of the juvenile division and its subdivisions and 16781
departments and shall have charge of the employment, assignment, 16782
and supervision of the personnel of the division engaged in 16783
handling, servicing, or investigating juvenile cases, including 16784
any referees considered necessary by the judges of the division in 16785
the discharge of their various duties. 16786

The judge of the court of common pleas, juvenile division, 16787
senior in point of service, also shall designate the title, 16788
compensation, expense allowance, hours, leaves of absence, and 16789
vacation of the personnel of the division and shall fix the duties 16790
of the personnel of the division. The duties of the personnel, in 16791
addition to other statutory duties include the handling, 16792
servicing, and investigation of juvenile cases and counseling and 16793
conciliation services that may be made available to persons 16794
requesting them, whether or not the persons are parties to an 16795
action pending in the division. 16796

(3) If one of the judges of the court of common pleas, 16797
division of domestic relations, or one of the judges of the 16798
juvenile division is sick, absent, or unable to perform that 16799
judge's judicial duties or the volume of cases pending in that 16800

judge's division necessitates it, the duties shall be performed by 16801
the judges of the other of those divisions. 16802

(E) In Mahoning county: 16803

(1) The judge of the court of common pleas whose term began 16804
on January 1, 1955, and successors, shall have the same 16805
qualifications, exercise the same powers and jurisdiction, and 16806
receive the same compensation as other judges of the court of 16807
common pleas of Mahoning county, shall be elected and designated 16808
as judge of the court of common pleas, division of domestic 16809
relations, and shall be assigned all the divorce, dissolution of 16810
marriage, legal separation, and annulment cases coming before the 16811
court. In addition to the judge's regular duties, the judge of the 16812
court of common pleas, division of domestic relations, shall be 16813
the administrator of the domestic relations division and its 16814
subdivisions and departments and shall have charge of the 16815
employment, assignment, and supervision of the personnel of the 16816
division engaged in handling, servicing, or investigating divorce, 16817
dissolution of marriage, legal separation, and annulment cases, 16818
including any referees considered necessary in the discharge of 16819
the various duties of the judge's office. 16820

The judge also shall designate the title, compensation, 16821
expense allowances, hours, leaves of absence, and vacations of the 16822
personnel of the division and shall fix the duties of the 16823
personnel of the division. The duties of the personnel, in 16824
addition to other statutory duties, include the handling, 16825
servicing, and investigation of divorce, dissolution of marriage, 16826
legal separation, and annulment cases and counseling and 16827
conciliation services that may be made available to persons 16828
requesting them, whether or not the persons are parties to an 16829
action pending in the division. 16830

(2) The judge of the court of common pleas whose term began 16831
on January 2, 1969, and successors, shall have the same 16832

qualifications, exercise the same powers and jurisdiction, and 16833
receive the same compensation as other judges of the court of 16834
common pleas of Mahoning county, shall be elected and designated 16835
as judge of the court of common pleas, juvenile division, and 16836
shall be the juvenile judge as provided in Chapters 2151. and 16837
2152. of the Revised Code, with the powers and jurisdictions 16838
conferred by those chapters. In addition to the judge's regular 16839
duties, the judge of the court of common pleas, juvenile division, 16840
shall be the administrator of the juvenile division and its 16841
subdivisions and departments and shall have charge of the 16842
employment, assignment, and supervision of the personnel of the 16843
division engaged in handling, servicing, or investigating juvenile 16844
cases, including any referees considered necessary by the judge in 16845
the discharge of the judge's various duties. 16846

The judge also shall designate the title, compensation, 16847
expense allowances, hours, leaves of absence, and vacation of the 16848
personnel of the division and shall fix the duties of the 16849
personnel of the division. The duties of the personnel, in 16850
addition to other statutory duties, include the handling, 16851
servicing, and investigation of juvenile cases and counseling and 16852
conciliation services that may be made available to persons 16853
requesting them, whether or not the persons are parties to an 16854
action pending in the division. 16855

(3) If a judge of the court of common pleas, division of 16856
domestic relations or juvenile division, is sick, absent, or 16857
unable to perform that judge's judicial duties, or the volume of 16858
cases pending in that judge's division necessitates it, that 16859
judge's duties shall be performed by another judge of the court of 16860
common pleas. 16861

(F) In Montgomery county: 16862

(1) The judges of the court of common pleas whose terms begin 16863
on January 2, 1953, and January 4, 1977, and successors, shall 16864

have the same qualifications, exercise the same powers and 16865
jurisdiction, and receive the same compensation as other judges of 16866
the court of common pleas of Montgomery county and shall be 16867
elected and designated as judges of the court of common pleas, 16868
division of domestic relations. These judges shall have assigned 16869
to them all divorce, dissolution of marriage, legal separation, 16870
and annulment cases. 16871

The judge of the division of domestic relations, senior in 16872
point of service, shall be charged exclusively with the assignment 16873
and division of the work of the division and shall have charge of 16874
the employment and supervision of the personnel of the division 16875
engaged in handling, servicing, or investigating divorce, 16876
dissolution of marriage, legal separation, and annulment cases, 16877
including any necessary referees, except those employees who may 16878
be appointed by the judge, junior in point of service, under this 16879
section and sections 2301.12, and 2301.18, ~~and 2301.19~~ of the 16880
Revised Code. The judge of the division of domestic relations, 16881
senior in point of service, also shall designate the title, 16882
compensation, expense allowances, hours, leaves of absence, and 16883
vacation of the personnel of the division and shall fix their 16884
duties. 16885

(2) The judges of the court of common pleas whose terms begin 16886
on January 1, 1953, and January 1, 1993, and successors, shall 16887
have the same qualifications, exercise the same powers and 16888
jurisdiction, and receive the same compensation as other judges of 16889
the court of common pleas of Montgomery county, shall be elected 16890
and designated as judges of the court of common pleas, juvenile 16891
division, and shall be, and have the powers and jurisdiction of, 16892
the juvenile judge as provided in Chapters 2151. and 2152. of the 16893
Revised Code. 16894

In addition to the judge's regular duties, the judge of the 16895
court of common pleas, juvenile division, senior in point of 16896

service, shall be the administrator of the juvenile division and 16897
its subdivisions and departments and shall have charge of the 16898
employment, assignment, and supervision of the personnel of the 16899
juvenile division, including any necessary referees, who are 16900
engaged in handling, servicing, or investigating juvenile cases. 16901
The judge, senior in point of service, also shall designate the 16902
title, compensation, expense allowances, hours, leaves of absence, 16903
and vacation of the personnel of the division and shall fix their 16904
duties. The duties of the personnel, in addition to other 16905
statutory duties, shall include the handling, servicing, and 16906
investigation of juvenile cases and of any counseling and 16907
conciliation services that are available upon request to persons, 16908
whether or not they are parties to an action pending in the 16909
division. 16910

If one of the judges of the court of common pleas, division 16911
of domestic relations, or one of the judges of the court of common 16912
pleas, juvenile division, is sick, absent, or unable to perform 16913
that judge's duties or the volume of cases pending in that judge's 16914
division necessitates it, the duties of that judge may be 16915
performed by the judge or judges of the other of those divisions. 16916

(G) In Richland county: 16917

(1) The judge of the court of common pleas whose term begins 16918
on January 1, 1957, and successors, shall have the same 16919
qualifications, exercise the same powers and jurisdiction, and 16920
receive the same compensation as the other judges of the court of 16921
common pleas of Richland county and shall be elected and 16922
designated as judge of the court of common pleas, division of 16923
domestic relations. That judge shall be assigned and hear all 16924
divorce, dissolution of marriage, legal separation, and annulment 16925
cases, all domestic violence cases arising under section 3113.31 16926
of the Revised Code, and all post-decree proceedings arising from 16927
any case pertaining to any of those matters. The division of 16928

domestic relations has concurrent jurisdiction with the juvenile 16929
division of the court of common pleas of Richland county to 16930
determine the care, custody, or control of any child not a ward of 16931
another court of this state, and to hear and determine a request 16932
for an order for the support of any child if the request is not 16933
ancillary to an action for divorce, dissolution of marriage, 16934
annulment, or legal separation, a criminal or civil action 16935
involving an allegation of domestic violence, or an action for 16936
support brought under Chapter 3115. of the Revised Code. Except in 16937
cases that are subject to the exclusive original jurisdiction of 16938
the juvenile court, the judge of the division of domestic 16939
relations shall be assigned and hear all cases pertaining to 16940
paternity or parentage, the care, custody, or control of children, 16941
parenting time or visitation, child support, or the allocation of 16942
parental rights and responsibilities for the care of children, all 16943
proceedings arising under Chapter 3111. of the Revised Code, all 16944
proceedings arising under the uniform interstate family support 16945
act contained in Chapter 3115. of the Revised Code, and all 16946
post-decree proceedings arising from any case pertaining to any of 16947
those matters. 16948

In addition to the judge's regular duties, the judge of the 16949
court of common pleas, division of domestic relations, shall be 16950
the administrator of the domestic relations division and its 16951
subdivisions and departments. The judge shall have charge of the 16952
employment, assignment, and supervision of the personnel of the 16953
domestic relations division, including any magistrates the judge 16954
considers necessary for the discharge of the judge's duties. The 16955
judge shall also designate the title, compensation, expense 16956
allowances, hours, leaves of absence, vacation, and other 16957
employment-related matters of the personnel of the division and 16958
shall fix their duties. 16959

(2) The judge of the court of common pleas whose term begins 16960

on January 3, 2005, and successors, shall have the same 16961
qualifications, exercise the same powers and jurisdiction, and 16962
receive the same compensation as other judges of the court of 16963
common pleas of Richland county, shall be elected and designated 16964
as judge of the court of common pleas, juvenile division, and 16965
shall be, and have the powers and jurisdiction of, the juvenile 16966
judge as provided in Chapters 2151. and 2152. of the Revised Code. 16967
Except in cases that are subject to the exclusive original 16968
jurisdiction of the juvenile court, the judge of the juvenile 16969
division shall not have jurisdiction or the power to hear, and 16970
shall not be assigned, any case pertaining to paternity or 16971
parentage, the care, custody, or control of children, parenting 16972
time or visitation, child support, or the allocation of parental 16973
rights and responsibilities for the care of children or any 16974
post-decree proceeding arising from any case pertaining to any of 16975
those matters. The judge of the juvenile division shall not have 16976
jurisdiction or the power to hear, and shall not be assigned, any 16977
proceeding under the uniform interstate family support act 16978
contained in Chapter 3115. of the Revised Code. 16979

In addition to the judge's regular duties, the judge of the 16980
juvenile division shall be the administrator of the juvenile 16981
division and its subdivisions and departments. The judge shall 16982
have charge of the employment, assignment, and supervision of the 16983
personnel of the juvenile division who are engaged in handling, 16984
servicing, or investigating juvenile cases, including any 16985
magistrates whom the judge considers necessary for the discharge 16986
of the judge's various duties. 16987

The judge of the juvenile division also shall designate the 16988
title, compensation, expense allowances, hours, leaves of absence, 16989
and vacation of the personnel of the division and shall fix their 16990
duties. The duties of the personnel, in addition to other 16991
statutory duties, include the handling, servicing, and 16992

investigation of juvenile cases and providing any counseling, 16993
conciliation, and mediation services that the court makes 16994
available to persons, whether or not the persons are parties to an 16995
action pending in the court, who request the services. 16996

(H) In Stark county, the judges of the court of common pleas 16997
whose terms begin on January 1, 1953, January 2, 1959, and January 16998
1, 1993, and successors, shall have the same qualifications, 16999
exercise the same powers and jurisdiction, and receive the same 17000
compensation as other judges of the court of common pleas of Stark 17001
county and shall be elected and designated as judges of the court 17002
of common pleas, division of domestic relations. They shall have 17003
all the powers relating to juvenile courts, and all cases under 17004
Chapters 2151. and 2152. of the Revised Code, all parentage 17005
proceedings over which the juvenile court has jurisdiction, and 17006
all divorce, dissolution of marriage, legal separation, and 17007
annulment cases, except cases that are assigned to some other 17008
judge of the court of common pleas for some special reason, shall 17009
be assigned to the judges. 17010

The judge of the division of domestic relations, second most 17011
senior in point of service, shall have charge of the employment 17012
and supervision of the personnel of the division engaged in 17013
handling, servicing, or investigating divorce, dissolution of 17014
marriage, legal separation, and annulment cases, and necessary 17015
referees required for the judge's respective court. 17016

The judge of the division of domestic relations, senior in 17017
point of service, shall be charged exclusively with the 17018
administration of sections 2151.13, 2151.16, 2151.17, and 2152.71 17019
of the Revised Code and with the assignment and division of the 17020
work of the division and the employment and supervision of all 17021
other personnel of the division, including, but not limited to, 17022
that judge's necessary referees, but excepting those employees who 17023
may be appointed by the judge second most senior in point of 17024

service. The senior judge further shall serve in every other 17025
position in which the statutes permit or require a juvenile judge 17026
to serve. 17027

(I) In Summit county: 17028

(1) The judges of the court of common pleas whose terms begin 17029
on January 4, 1967, and January 6, 1993, and successors, shall 17030
have the same qualifications, exercise the same powers and 17031
jurisdiction, and receive the same compensation as other judges of 17032
the court of common pleas of Summit county and shall be elected 17033
and designated as judges of the court of common pleas, division of 17034
domestic relations. The judges of the division of domestic 17035
relations shall have assigned to them and hear all divorce, 17036
dissolution of marriage, legal separation, and annulment cases 17037
that come before the court. Except in cases that are subject to 17038
the exclusive original jurisdiction of the juvenile court, the 17039
judges of the division of domestic relations shall have assigned 17040
to them and hear all cases pertaining to paternity, custody, 17041
visitation, child support, or the allocation of parental rights 17042
and responsibilities for the care of children and all post-decree 17043
proceedings arising from any case pertaining to any of those 17044
matters. The judges of the division of domestic relations shall 17045
have assigned to them and hear all proceedings under the uniform 17046
interstate family support act contained in Chapter 3115. of the 17047
Revised Code. 17048

The judge of the division of domestic relations, senior in 17049
point of service, shall be the administrator of the domestic 17050
relations division and its subdivisions and departments and shall 17051
have charge of the employment, assignment, and supervision of the 17052
personnel of the division, including any necessary referees, who 17053
are engaged in handling, servicing, or investigating divorce, 17054
dissolution of marriage, legal separation, and annulment cases. 17055
That judge also shall designate the title, compensation, expense 17056

allowances, hours, leaves of absence, and vacations of the 17057
personnel of the division and shall fix their duties. The duties 17058
of the personnel, in addition to other statutory duties, shall 17059
include the handling, servicing, and investigation of divorce, 17060
dissolution of marriage, legal separation, and annulment cases and 17061
of any counseling and conciliation services that are available 17062
upon request to all persons, whether or not they are parties to an 17063
action pending in the division. 17064

(2) The judge of the court of common pleas whose term begins 17065
on January 1, 1955, and successors, shall have the same 17066
qualifications, exercise the same powers and jurisdiction, and 17067
receive the same compensation as other judges of the court of 17068
common pleas of Summit county, shall be elected and designated as 17069
judge of the court of common pleas, juvenile division, and shall 17070
be, and have the powers and jurisdiction of, the juvenile judge as 17071
provided in Chapters 2151. and 2152. of the Revised Code. Except 17072
in cases that are subject to the exclusive original jurisdiction 17073
of the juvenile court, the judge of the juvenile division shall 17074
not have jurisdiction or the power to hear, and shall not be 17075
assigned, any case pertaining to paternity, custody, visitation, 17076
child support, or the allocation of parental rights and 17077
responsibilities for the care of children or any post-decree 17078
proceeding arising from any case pertaining to any of those 17079
matters. The judge of the juvenile division shall not have 17080
jurisdiction or the power to hear, and shall not be assigned, any 17081
proceeding under the uniform interstate family support act 17082
contained in Chapter 3115. of the Revised Code. 17083

The juvenile judge shall be the administrator of the juvenile 17084
division and its subdivisions and departments and shall have 17085
charge of the employment, assignment, and supervision of the 17086
personnel of the juvenile division, including any necessary 17087
referees, who are engaged in handling, servicing, or investigating 17088

juvenile cases. The judge also shall designate the title, 17089
compensation, expense allowances, hours, leaves of absence, and 17090
vacation of the personnel of the division and shall fix their 17091
duties. The duties of the personnel, in addition to other 17092
statutory duties, shall include the handling, servicing, and 17093
investigation of juvenile cases and of any counseling and 17094
conciliation services that are available upon request to persons, 17095
whether or not they are parties to an action pending in the 17096
division. 17097

(J) In Trumbull county, the judges of the court of common 17098
pleas whose terms begin on January 1, 1953, and January 2, 1977, 17099
and successors, shall have the same qualifications, exercise the 17100
same powers and jurisdiction, and receive the same compensation as 17101
other judges of the court of common pleas of Trumbull county and 17102
shall be elected and designated as judges of the court of common 17103
pleas, division of domestic relations. They shall have all the 17104
powers relating to juvenile courts, and all cases under Chapters 17105
2151. and 2152. of the Revised Code, all parentage proceedings 17106
over which the juvenile court has jurisdiction, and all divorce, 17107
dissolution of marriage, legal separation, and annulment cases 17108
shall be assigned to them, except cases that for some special 17109
reason are assigned to some other judge of the court of common 17110
pleas. 17111

(K) In Butler county: 17112

(1) The judges of the court of common pleas whose terms begin 17113
on January 1, 1957, and January 4, 1993, and successors, shall 17114
have the same qualifications, exercise the same powers and 17115
jurisdiction, and receive the same compensation as other judges of 17116
the court of common pleas of Butler county and shall be elected 17117
and designated as judges of the court of common pleas, division of 17118
domestic relations. The judges of the division of domestic 17119
relations shall have assigned to them all divorce, dissolution of 17120

marriage, legal separation, and annulment cases coming before the 17121
court, except in cases that for some special reason are assigned 17122
to some other judge of the court of common pleas. The judges of 17123
the division of domestic relations also have concurrent 17124
jurisdiction with judges of the juvenile division of the court of 17125
common pleas of Butler county with respect to and may hear cases 17126
to determine the custody, support, or custody and support of a 17127
child who is born of issue of a marriage and who is not the ward 17128
of another court of this state, cases commenced by a party of the 17129
marriage to obtain an order requiring support of any child when 17130
the request for that order is not ancillary to an action for 17131
divorce, dissolution of marriage, annulment, or legal separation, 17132
a criminal or civil action involving an allegation of domestic 17133
violence, an action for support under Chapter 3115. of the Revised 17134
Code, or an action that is within the exclusive original 17135
jurisdiction of the juvenile division of the court of common pleas 17136
of Butler county and that involves an allegation that the child is 17137
an abused, neglected, or dependent child, and post-decree 17138
proceedings and matters arising from those types of cases. The 17139
judge senior in point of service shall be charged with the 17140
assignment and division of the work of the division and with the 17141
employment and supervision of all other personnel of the domestic 17142
relations division. 17143

The judge senior in point of service also shall designate the 17144
title, compensation, expense allowances, hours, leaves of absence, 17145
and vacations of the personnel of the division and shall fix their 17146
duties. The duties of the personnel, in addition to other 17147
statutory duties, shall include the handling, servicing, and 17148
investigation of divorce, dissolution of marriage, legal 17149
separation, and annulment cases and providing any counseling and 17150
conciliation services that the division makes available to 17151
persons, whether or not the persons are parties to an action 17152
pending in the division, who request the services. 17153

(2) The judges of the court of common pleas whose terms begin 17154
on January 3, 1987, and January 2, 2003, and successors, shall 17155
have the same qualifications, exercise the same powers and 17156
jurisdiction, and receive the same compensation as other judges of 17157
the court of common pleas of Butler county, shall be elected and 17158
designated as judges of the court of common pleas, juvenile 17159
division, and shall be the juvenile judges as provided in Chapters 17160
2151. and 2152. of the Revised Code, with the powers and 17161
jurisdictions conferred by those chapters. Except in cases that 17162
are subject to the exclusive original jurisdiction of the juvenile 17163
court, the judges of the juvenile division shall not have 17164
jurisdiction or the power to hear and shall not be assigned, but 17165
shall have the limited ability and authority to certify, any case 17166
commenced by a party of a marriage to determine the custody, 17167
support, or custody and support of a child who is born of issue of 17168
the marriage and who is not the ward of another court of this 17169
state when the request for the order in the case is not ancillary 17170
to an action for divorce, dissolution of marriage, annulment, or 17171
legal separation. The judge of the court of common pleas, juvenile 17172
division, who is senior in point of service, shall be the 17173
administrator of the juvenile division and its subdivisions and 17174
departments. The judge, senior in point of service, shall have 17175
charge of the employment, assignment, and supervision of the 17176
personnel of the juvenile division who are engaged in handling, 17177
servicing, or investigating juvenile cases, including any referees 17178
whom the judge considers necessary for the discharge of the 17179
judge's various duties. 17180

The judge, senior in point of service, also shall designate 17181
the title, compensation, expense allowances, hours, leaves of 17182
absence, and vacation of the personnel of the division and shall 17183
fix their duties. The duties of the personnel, in addition to 17184
other statutory duties, include the handling, servicing, and 17185
investigation of juvenile cases and providing any counseling and 17186

conciliation services that the division makes available to 17187
persons, whether or not the persons are parties to an action 17188
pending in the division, who request the services. 17189

(3) If a judge of the court of common pleas, division of 17190
domestic relations or juvenile division, is sick, absent, or 17191
unable to perform that judge's judicial duties or the volume of 17192
cases pending in the judge's division necessitates it, the duties 17193
of that judge shall be performed by the other judges of the 17194
domestic relations and juvenile divisions. 17195

(L)(1) In Cuyahoga county, the judges of the court of common 17196
pleas whose terms begin on January 8, 1961, January 9, 1961, 17197
January 18, 1975, January 19, 1975, and January 13, 1987, and 17198
successors, shall have the same qualifications, exercise the same 17199
powers and jurisdiction, and receive the same compensation as 17200
other judges of the court of common pleas of Cuyahoga county and 17201
shall be elected and designated as judges of the court of common 17202
pleas, division of domestic relations. They shall have all the 17203
powers relating to all divorce, dissolution of marriage, legal 17204
separation, and annulment cases, except in cases that are assigned 17205
to some other judge of the court of common pleas for some special 17206
reason. 17207

(2) The administrative judge is administrator of the domestic 17208
relations division and its subdivisions and departments and has 17209
the following powers concerning division personnel: 17210

(a) Full charge of the employment, assignment, and 17211
supervision; 17212

(b) Sole determination of compensation, duties, expenses, 17213
allowances, hours, leaves, and vacations. 17214

(3) "Division personnel" include persons employed or referees 17215
engaged in hearing, servicing, investigating, counseling, or 17216
conciliating divorce, dissolution of marriage, legal separation 17217

and annulment matters. 17218

(M) In Lake county: 17219

(1) The judge of the court of common pleas whose term begins 17220
on January 2, 1961, and successors, shall have the same 17221
qualifications, exercise the same powers and jurisdiction, and 17222
receive the same compensation as the other judges of the court of 17223
common pleas of Lake county and shall be elected and designated as 17224
judge of the court of common pleas, division of domestic 17225
relations. The judge shall be assigned all the divorce, 17226
dissolution of marriage, legal separation, and annulment cases 17227
coming before the court, except in cases that for some special 17228
reason are assigned to some other judge of the court of common 17229
pleas. The judge shall be charged with the assignment and division 17230
of the work of the division and with the employment and 17231
supervision of all other personnel of the domestic relations 17232
division. 17233

The judge also shall designate the title, compensation, 17234
expense allowances, hours, leaves of absence, and vacations of the 17235
personnel of the division and shall fix their duties. The duties 17236
of the personnel, in addition to other statutory duties, shall 17237
include the handling, servicing, and investigation of divorce, 17238
dissolution of marriage, legal separation, and annulment cases and 17239
providing any counseling and conciliation services that the 17240
division makes available to persons, whether or not the persons 17241
are parties to an action pending in the division, who request the 17242
services. 17243

(2) The judge of the court of common pleas whose term begins 17244
on January 4, 1979, and successors, shall have the same 17245
qualifications, exercise the same powers and jurisdiction, and 17246
receive the same compensation as other judges of the court of 17247
common pleas of Lake county, shall be elected and designated as 17248
judge of the court of common pleas, juvenile division, and shall 17249

be the juvenile judge as provided in Chapters 2151. and 2152. of 17250
the Revised Code, with the powers and jurisdictions conferred by 17251
those chapters. The judge of the court of common pleas, juvenile 17252
division, shall be the administrator of the juvenile division and 17253
its subdivisions and departments. The judge shall have charge of 17254
the employment, assignment, and supervision of the personnel of 17255
the juvenile division who are engaged in handling, servicing, or 17256
investigating juvenile cases, including any referees whom the 17257
judge considers necessary for the discharge of the judge's various 17258
duties. 17259

The judge also shall designate the title, compensation, 17260
expense allowances, hours, leaves of absence, and vacation of the 17261
personnel of the division and shall fix their duties. The duties 17262
of the personnel, in addition to other statutory duties, include 17263
the handling, servicing, and investigation of juvenile cases and 17264
providing any counseling and conciliation services that the 17265
division makes available to persons, whether or not the persons 17266
are parties to an action pending in the division, who request the 17267
services. 17268

(3) If a judge of the court of common pleas, division of 17269
domestic relations or juvenile division, is sick, absent, or 17270
unable to perform that judge's judicial duties or the volume of 17271
cases pending in the judge's division necessitates it, the duties 17272
of that judge shall be performed by the other judges of the 17273
domestic relations and juvenile divisions. 17274

(N) In Erie county: 17275

(1) The judge of the court of common pleas whose term begins 17276
on January 2, 1971, and the successors to that judge whose terms 17277
begin before January 2, 2007, shall have the same qualifications, 17278
exercise the same powers and jurisdiction, and receive the same 17279
compensation as the other judge of the court of common pleas of 17280
Erie county and shall be elected and designated as judge of the 17281

court of common pleas, division of domestic relations. The judge 17282
shall have all the powers relating to juvenile courts, and shall 17283
be assigned all cases under Chapters 2151. and 2152. of the 17284
Revised Code, parentage proceedings over which the juvenile court 17285
has jurisdiction, and divorce, dissolution of marriage, legal 17286
separation, and annulment cases, except cases that for some 17287
special reason are assigned to some other judge. 17288

On or after January 2, 2007, the judge of the court of common 17289
pleas who is elected in 2006 shall be the successor to the judge 17290
of the domestic relations division whose term expires on January 17291
1, 2007, shall be designated as judge of the court of common 17292
pleas, juvenile division, and shall be the juvenile judge as 17293
provided in Chapters 2151. and 2152. of the Revised Code with the 17294
powers and jurisdictions conferred by those chapters. 17295

(2) The judge of the court of common pleas, general division, 17296
whose term begins on January 1, 2005, and successors, the judge of 17297
the court of common pleas, general division whose term begins on 17298
January 2, 2005, and successors, and the judge of the court of 17299
common pleas, general division, whose term begins February 9, 17300
2009, and successors, shall have assigned to them, in addition to 17301
all matters that are within the jurisdiction of the general 17302
division of the court of common pleas, all divorce, dissolution of 17303
marriage, legal separation, and annulment cases coming before the 17304
court, and all matters that are within the jurisdiction of the 17305
probate court under Chapter 2101., and other provisions, of the 17306
Revised Code. 17307

(0) In Greene county: 17308

(1) The judge of the court of common pleas whose term begins 17309
on January 1, 1961, and successors, shall have the same 17310
qualifications, exercise the same powers and jurisdiction, and 17311
receive the same compensation as the other judges of the court of 17312
common pleas of Greene county and shall be elected and designated 17313

as the judge of the court of common pleas, division of domestic 17314
relations. The judge shall be assigned all divorce, dissolution of 17315
marriage, legal separation, annulment, uniform reciprocal support 17316
enforcement, and domestic violence cases and all other cases 17317
related to domestic relations, except cases that for some special 17318
reason are assigned to some other judge of the court of common 17319
pleas. 17320

The judge shall be charged with the assignment and division 17321
of the work of the division and with the employment and 17322
supervision of all other personnel of the division. The judge also 17323
shall designate the title, compensation, hours, leaves of absence, 17324
and vacations of the personnel of the division and shall fix their 17325
duties. The duties of the personnel of the division, in addition 17326
to other statutory duties, shall include the handling, servicing, 17327
and investigation of divorce, dissolution of marriage, legal 17328
separation, and annulment cases and the provision of counseling 17329
and conciliation services that the division considers necessary 17330
and makes available to persons who request the services, whether 17331
or not the persons are parties in an action pending in the 17332
division. The compensation for the personnel shall be paid from 17333
the overall court budget and shall be included in the 17334
appropriations for the existing judges of the general division of 17335
the court of common pleas. 17336

(2) The judge of the court of common pleas whose term begins 17337
on January 1, 1995, and successors, shall have the same 17338
qualifications, exercise the same powers and jurisdiction, and 17339
receive the same compensation as the other judges of the court of 17340
common pleas of Greene county, shall be elected and designated as 17341
judge of the court of common pleas, juvenile division, and, on or 17342
after January 1, 1995, shall be the juvenile judge as provided in 17343
Chapters 2151. and 2152. of the Revised Code with the powers and 17344
jurisdiction conferred by those chapters. The judge of the court 17345

of common pleas, juvenile division, shall be the administrator of 17346
the juvenile division and its subdivisions and departments. The 17347
judge shall have charge of the employment, assignment, and 17348
supervision of the personnel of the juvenile division who are 17349
engaged in handling, servicing, or investigating juvenile cases, 17350
including any referees whom the judge considers necessary for the 17351
discharge of the judge's various duties. 17352

The judge also shall designate the title, compensation, 17353
expense allowances, hours, leaves of absence, and vacation of the 17354
personnel of the division and shall fix their duties. The duties 17355
of the personnel, in addition to other statutory duties, include 17356
the handling, servicing, and investigation of juvenile cases and 17357
providing any counseling and conciliation services that the court 17358
makes available to persons, whether or not the persons are parties 17359
to an action pending in the court, who request the services. 17360

(3) If one of the judges of the court of common pleas, 17361
general division, is sick, absent, or unable to perform that 17362
judge's judicial duties or the volume of cases pending in the 17363
general division necessitates it, the duties of that judge of the 17364
general division shall be performed by the judge of the division 17365
of domestic relations and the judge of the juvenile division. 17366

(P) In Portage county, the judge of the court of common 17367
pleas, whose term begins January 2, 1987, and successors, shall 17368
have the same qualifications, exercise the same powers and 17369
jurisdiction, and receive the same compensation as the other 17370
judges of the court of common pleas of Portage county and shall be 17371
elected and designated as judge of the court of common pleas, 17372
division of domestic relations. The judge shall be assigned all 17373
divorce, dissolution of marriage, legal separation, and annulment 17374
cases coming before the court, except in cases that for some 17375
special reason are assigned to some other judge of the court of 17376
common pleas. The judge shall be charged with the assignment and 17377

division of the work of the division and with the employment and 17378
supervision of all other personnel of the domestic relations 17379
division. 17380

The judge also shall designate the title, compensation, 17381
expense allowances, hours, leaves of absence, and vacations of the 17382
personnel of the division and shall fix their duties. The duties 17383
of the personnel, in addition to other statutory duties, shall 17384
include the handling, servicing, and investigation of divorce, 17385
dissolution of marriage, legal separation, and annulment cases and 17386
providing any counseling and conciliation services that the 17387
division makes available to persons, whether or not the persons 17388
are parties to an action pending in the division, who request the 17389
services. 17390

(Q) In Clermont county, the judge of the court of common 17391
pleas, whose term begins January 2, 1987, and successors, shall 17392
have the same qualifications, exercise the same powers and 17393
jurisdiction, and receive the same compensation as the other 17394
judges of the court of common pleas of Clermont county and shall 17395
be elected and designated as judge of the court of common pleas, 17396
division of domestic relations. The judge shall be assigned all 17397
divorce, dissolution of marriage, legal separation, and annulment 17398
cases coming before the court, except in cases that for some 17399
special reason are assigned to some other judge of the court of 17400
common pleas. The judge shall be charged with the assignment and 17401
division of the work of the division and with the employment and 17402
supervision of all other personnel of the domestic relations 17403
division. 17404

The judge also shall designate the title, compensation, 17405
expense allowances, hours, leaves of absence, and vacations of the 17406
personnel of the division and shall fix their duties. The duties 17407
of the personnel, in addition to other statutory duties, shall 17408
include the handling, servicing, and investigation of divorce, 17409

dissolution of marriage, legal separation, and annulment cases and 17410
providing any counseling and conciliation services that the 17411
division makes available to persons, whether or not the persons 17412
are parties to an action pending in the division, who request the 17413
services. 17414

(R) In Warren county, the judge of the court of common pleas, 17415
whose term begins January 1, 1987, and successors, shall have the 17416
same qualifications, exercise the same powers and jurisdiction, 17417
and receive the same compensation as the other judges of the court 17418
of common pleas of Warren county and shall be elected and 17419
designated as judge of the court of common pleas, division of 17420
domestic relations. The judge shall be assigned all divorce, 17421
dissolution of marriage, legal separation, and annulment cases 17422
coming before the court, except in cases that for some special 17423
reason are assigned to some other judge of the court of common 17424
pleas. The judge shall be charged with the assignment and division 17425
of the work of the division and with the employment and 17426
supervision of all other personnel of the domestic relations 17427
division. 17428

The judge also shall designate the title, compensation, 17429
expense allowances, hours, leaves of absence, and vacations of the 17430
personnel of the division and shall fix their duties. The duties 17431
of the personnel, in addition to other statutory duties, shall 17432
include the handling, servicing, and investigation of divorce, 17433
dissolution of marriage, legal separation, and annulment cases and 17434
providing any counseling and conciliation services that the 17435
division makes available to persons, whether or not the persons 17436
are parties to an action pending in the division, who request the 17437
services. 17438

(S) In Licking county, the judges of the court of common 17439
pleas, whose terms begin on January 1, 1991, and January 1, 2005, 17440
and successors, shall have the same qualifications, exercise the 17441

same powers and jurisdiction, and receive the same compensation as 17442
the other judges of the court of common pleas of Licking county 17443
and shall be elected and designated as judges of the court of 17444
common pleas, division of domestic relations. The judges shall be 17445
assigned all divorce, dissolution of marriage, legal separation, 17446
and annulment cases, all cases arising under Chapter 3111. of the 17447
Revised Code, all proceedings involving child support, the 17448
allocation of parental rights and responsibilities for the care of 17449
children and the designation for the children of a place of 17450
residence and legal custodian, parenting time, and visitation, and 17451
all post-decree proceedings and matters arising from those cases 17452
and proceedings, except in cases that for some special reason are 17453
assigned to another judge of the court of common pleas. The 17454
administrative judge of the division of domestic relations shall 17455
be charged with the assignment and division of the work of the 17456
division and with the employment and supervision of the personnel 17457
of the division. 17458

The administrative judge of the division of domestic 17459
relations shall designate the title, compensation, expense 17460
allowances, hours, leaves of absence, and vacations of the 17461
personnel of the division and shall fix the duties of the 17462
personnel of the division. The duties of the personnel of the 17463
division, in addition to other statutory duties, shall include the 17464
handling, servicing, and investigation of divorce, dissolution of 17465
marriage, legal separation, and annulment cases, cases arising 17466
under Chapter 3111. of the Revised Code, and proceedings involving 17467
child support, the allocation of parental rights and 17468
responsibilities for the care of children and the designation for 17469
the children of a place of residence and legal custodian, 17470
parenting time, and visitation and providing any counseling and 17471
conciliation services that the division makes available to 17472
persons, whether or not the persons are parties to an action 17473
pending in the division, who request the services. 17474

(T) In Allen county, the judge of the court of common pleas, 17475
whose term begins January 1, 1993, and successors, shall have the 17476
same qualifications, exercise the same powers and jurisdiction, 17477
and receive the same compensation as the other judges of the court 17478
of common pleas of Allen county and shall be elected and 17479
designated as judge of the court of common pleas, division of 17480
domestic relations. The judge shall be assigned all divorce, 17481
dissolution of marriage, legal separation, and annulment cases, 17482
all cases arising under Chapter 3111. of the Revised Code, all 17483
proceedings involving child support, the allocation of parental 17484
rights and responsibilities for the care of children and the 17485
designation for the children of a place of residence and legal 17486
custodian, parenting time, and visitation, and all post-decree 17487
proceedings and matters arising from those cases and proceedings, 17488
except in cases that for some special reason are assigned to 17489
another judge of the court of common pleas. The judge shall be 17490
charged with the assignment and division of the work of the 17491
division and with the employment and supervision of the personnel 17492
of the division. 17493

The judge shall designate the title, compensation, expense 17494
allowances, hours, leaves of absence, and vacations of the 17495
personnel of the division and shall fix the duties of the 17496
personnel of the division. The duties of the personnel of the 17497
division, in addition to other statutory duties, shall include the 17498
handling, servicing, and investigation of divorce, dissolution of 17499
marriage, legal separation, and annulment cases, cases arising 17500
under Chapter 3111. of the Revised Code, and proceedings involving 17501
child support, the allocation of parental rights and 17502
responsibilities for the care of children and the designation for 17503
the children of a place of residence and legal custodian, 17504
parenting time, and visitation, and providing any counseling and 17505
conciliation services that the division makes available to 17506
persons, whether or not the persons are parties to an action 17507

pending in the division, who request the services. 17508

(U) In Medina county, the judge of the court of common pleas 17509
whose term begins January 1, 1995, and successors, shall have the 17510
same qualifications, exercise the same powers and jurisdiction, 17511
and receive the same compensation as other judges of the court of 17512
common pleas of Medina county and shall be elected and designated 17513
as judge of the court of common pleas, division of domestic 17514
relations. The judge shall be assigned all divorce, dissolution of 17515
marriage, legal separation, and annulment cases, all cases arising 17516
under Chapter 3111. of the Revised Code, all proceedings involving 17517
child support, the allocation of parental rights and 17518
responsibilities for the care of children and the designation for 17519
the children of a place of residence and legal custodian, 17520
parenting time, and visitation, and all post-decree proceedings 17521
and matters arising from those cases and proceedings, except in 17522
cases that for some special reason are assigned to another judge 17523
of the court of common pleas. The judge shall be charged with the 17524
assignment and division of the work of the division and with the 17525
employment and supervision of the personnel of the division. 17526

The judge shall designate the title, compensation, expense 17527
allowances, hours, leaves of absence, and vacations of the 17528
personnel of the division and shall fix the duties of the 17529
personnel of the division. The duties of the personnel, in 17530
addition to other statutory duties, include the handling, 17531
servicing, and investigation of divorce, dissolution of marriage, 17532
legal separation, and annulment cases, cases arising under Chapter 17533
3111. of the Revised Code, and proceedings involving child 17534
support, the allocation of parental rights and responsibilities 17535
for the care of children and the designation for the children of a 17536
place of residence and legal custodian, parenting time, and 17537
visitation, and providing counseling and conciliation services 17538
that the division makes available to persons, whether or not the 17539

persons are parties to an action pending in the division, who 17540
request the services. 17541

(V) In Fairfield county, the judge of the court of common 17542
pleas whose term begins January 2, 1995, and successors, shall 17543
have the same qualifications, exercise the same powers and 17544
jurisdiction, and receive the same compensation as the other 17545
judges of the court of common pleas of Fairfield county and shall 17546
be elected and designated as judge of the court of common pleas, 17547
division of domestic relations. The judge shall be assigned all 17548
divorce, dissolution of marriage, legal separation, and annulment 17549
cases, all cases arising under Chapter 3111. of the Revised Code, 17550
all proceedings involving child support, the allocation of 17551
parental rights and responsibilities for the care of children and 17552
the designation for the children of a place of residence and legal 17553
custodian, parenting time, and visitation, and all post-decree 17554
proceedings and matters arising from those cases and proceedings, 17555
except in cases that for some special reason are assigned to 17556
another judge of the court of common pleas. The judge also has 17557
concurrent jurisdiction with the probate-juvenile division of the 17558
court of common pleas of Fairfield county with respect to and may 17559
hear cases to determine the custody of a child, as defined in 17560
section 2151.011 of the Revised Code, who is not the ward of 17561
another court of this state, cases that are commenced by a parent, 17562
guardian, or custodian of a child, as defined in section 2151.011 17563
of the Revised Code, to obtain an order requiring a parent of the 17564
child to pay child support for that child when the request for 17565
that order is not ancillary to an action for divorce, dissolution 17566
of marriage, annulment, or legal separation, a criminal or civil 17567
action involving an allegation of domestic violence, an action for 17568
support under Chapter 3115. of the Revised Code, or an action that 17569
is within the exclusive original jurisdiction of the 17570
probate-juvenile division of the court of common pleas of 17571
Fairfield county and that involves an allegation that the child is 17572

an abused, neglected, or dependent child, and post-decree 17573
proceedings and matters arising from those types of cases. 17574

The judge of the domestic relations division shall be charged 17575
with the assignment and division of the work of the division and 17576
with the employment and supervision of the personnel of the 17577
division. 17578

The judge shall designate the title, compensation, expense 17579
allowances, hours, leaves of absence, and vacations of the 17580
personnel of the division and shall fix the duties of the 17581
personnel of the division. The duties of the personnel of the 17582
division, in addition to other statutory duties, shall include the 17583
handling, servicing, and investigation of divorce, dissolution of 17584
marriage, legal separation, and annulment cases, cases arising 17585
under Chapter 3111. of the Revised Code, and proceedings involving 17586
child support, the allocation of parental rights and 17587
responsibilities for the care of children and the designation for 17588
the children of a place of residence and legal custodian, 17589
parenting time, and visitation, and providing any counseling and 17590
conciliation services that the division makes available to 17591
persons, regardless of whether the persons are parties to an 17592
action pending in the division, who request the services. When the 17593
judge hears a case to determine the custody of a child, as defined 17594
in section 2151.011 of the Revised Code, who is not the ward of 17595
another court of this state or a case that is commenced by a 17596
parent, guardian, or custodian of a child, as defined in section 17597
2151.011 of the Revised Code, to obtain an order requiring a 17598
parent of the child to pay child support for that child when the 17599
request for that order is not ancillary to an action for divorce, 17600
dissolution of marriage, annulment, or legal separation, a 17601
criminal or civil action involving an allegation of domestic 17602
violence, an action for support under Chapter 3115. of the Revised 17603
Code, or an action that is within the exclusive original 17604

jurisdiction of the probate-juvenile division of the court of 17605
common pleas of Fairfield county and that involves an allegation 17606
that the child is an abused, neglected, or dependent child, the 17607
duties of the personnel of the domestic relations division also 17608
include the handling, servicing, and investigation of those types 17609
of cases. 17610

(W)(1) In Clark county, the judge of the court of common 17611
pleas whose term begins on January 2, 1995, and successors, shall 17612
have the same qualifications, exercise the same powers and 17613
jurisdiction, and receive the same compensation as other judges of 17614
the court of common pleas of Clark county and shall be elected and 17615
designated as judge of the court of common pleas, domestic 17616
relations division. The judge shall have all the powers relating 17617
to juvenile courts, and all cases under Chapters 2151. and 2152. 17618
of the Revised Code and all parentage proceedings under Chapter 17619
3111. of the Revised Code over which the juvenile court has 17620
jurisdiction shall be assigned to the judge of the division of 17621
domestic relations. All divorce, dissolution of marriage, legal 17622
separation, annulment, uniform reciprocal support enforcement, and 17623
other cases related to domestic relations shall be assigned to the 17624
domestic relations division, and the presiding judge of the court 17625
of common pleas shall assign the cases to the judge of the 17626
domestic relations division and the judges of the general 17627
division. 17628

(2) In addition to the judge's regular duties, the judge of 17629
the division of domestic relations shall serve on the children 17630
services board and the county advisory board. 17631

(3) If the judge of the court of common pleas of Clark 17632
county, division of domestic relations, is sick, absent, or unable 17633
to perform that judge's judicial duties or if the presiding judge 17634
of the court of common pleas of Clark county determines that the 17635
volume of cases pending in the division of domestic relations 17636

necessitates it, the duties of the judge of the division of 17637
domestic relations shall be performed by the judges of the general 17638
division or probate division of the court of common pleas of Clark 17639
county, as assigned for that purpose by the presiding judge of 17640
that court, and the judges so assigned shall act in conjunction 17641
with the judge of the division of domestic relations of that 17642
court. 17643

(X) In Scioto county, the judge of the court of common pleas 17644
whose term begins January 2, 1995, and successors, shall have the 17645
same qualifications, exercise the same powers and jurisdiction, 17646
and receive the same compensation as other judges of the court of 17647
common pleas of Scioto county and shall be elected and designated 17648
as judge of the court of common pleas, division of domestic 17649
relations. The judge shall be assigned all divorce, dissolution of 17650
marriage, legal separation, and annulment cases, all cases arising 17651
under Chapter 3111. of the Revised Code, all proceedings involving 17652
child support, the allocation of parental rights and 17653
responsibilities for the care of children and the designation for 17654
the children of a place of residence and legal custodian, 17655
parenting time, visitation, and all post-decree proceedings and 17656
matters arising from those cases and proceedings, except in cases 17657
that for some special reason are assigned to another judge of the 17658
court of common pleas. The judge shall be charged with the 17659
assignment and division of the work of the division and with the 17660
employment and supervision of the personnel of the division. 17661

The judge shall designate the title, compensation, expense 17662
allowances, hours, leaves of absence, and vacations of the 17663
personnel of the division and shall fix the duties of the 17664
personnel of the division. The duties of the personnel, in 17665
addition to other statutory duties, include the handling, 17666
servicing, and investigation of divorce, dissolution of marriage, 17667
legal separation, and annulment cases, cases arising under Chapter 17668

3111. of the Revised Code, and proceedings involving child 17669
support, the allocation of parental rights and responsibilities 17670
for the care of children and the designation for the children of a 17671
place of residence and legal custodian, parenting time, and 17672
visitation, and providing counseling and conciliation services 17673
that the division makes available to persons, whether or not the 17674
persons are parties to an action pending in the division, who 17675
request the services. 17676

(Y) In Auglaize county, the judge of the probate and juvenile 17677
divisions of the Auglaize county court of common pleas also shall 17678
be the administrative judge of the domestic relations division of 17679
the court and shall be assigned all divorce, dissolution of 17680
marriage, legal separation, and annulment cases coming before the 17681
court. The judge shall have all powers as administrator of the 17682
domestic relations division and shall have charge of the personnel 17683
engaged in handling, servicing, or investigating divorce, 17684
dissolution of marriage, legal separation, and annulment cases, 17685
including any referees considered necessary for the discharge of 17686
the judge's various duties. 17687

(Z)(1) In Marion county, the judge of the court of common 17688
pleas whose term begins on February 9, 1999, and the successors to 17689
that judge, shall have the same qualifications, exercise the same 17690
powers and jurisdiction, and receive the same compensation as the 17691
other judges of the court of common pleas of Marion county and 17692
shall be elected and designated as judge of the court of common 17693
pleas, domestic relations-juvenile-probate division. Except as 17694
otherwise specified in this division, that judge, and the 17695
successors to that judge, shall have all the powers relating to 17696
juvenile courts, and all cases under Chapters 2151. and 2152. of 17697
the Revised Code, all cases arising under Chapter 3111. of the 17698
Revised Code, all divorce, dissolution of marriage, legal 17699
separation, and annulment cases, all proceedings involving child 17700

support, the allocation of parental rights and responsibilities 17701
for the care of children and the designation for the children of a 17702
place of residence and legal custodian, parenting time, and 17703
visitation, and all post-decree proceedings and matters arising 17704
from those cases and proceedings shall be assigned to that judge 17705
and the successors to that judge. Except as provided in division 17706
(Z)(2) of this section and notwithstanding any other provision of 17707
any section of the Revised Code, on and after February 9, 2003, 17708
the judge of the court of common pleas of Marion county whose term 17709
begins on February 9, 1999, and the successors to that judge, 17710
shall have all the powers relating to the probate division of the 17711
court of common pleas of Marion county in addition to the powers 17712
previously specified in this division, and shall exercise 17713
concurrent jurisdiction with the judge of the probate division of 17714
that court over all matters that are within the jurisdiction of 17715
the probate division of that court under Chapter 2101., and other 17716
provisions, of the Revised Code in addition to the jurisdiction of 17717
the domestic relations-juvenile-probate division of that court 17718
otherwise specified in division (Z)(1) of this section. 17719

(2) The judge of the domestic relations-juvenile-probate 17720
division of the court of common pleas of Marion county or the 17721
judge of the probate division of the court of common pleas of 17722
Marion county, whichever of those judges is senior in total length 17723
of service on the court of common pleas of Marion county, 17724
regardless of the division or divisions of service, shall serve as 17725
the clerk of the probate division of the court of common pleas of 17726
Marion county. 17727

(3) On and after February 9, 2003, all references in law to 17728
"the probate court," "the probate judge," "the juvenile court," or 17729
"the judge of the juvenile court" shall be construed, with respect 17730
to Marion county, as being references to both "the probate 17731
division" and "the domestic relations-juvenile-probate division" 17732

and as being references to both "the judge of the probate 17733
division" and "the judge of the domestic relations- 17734
juvenile-probate division." On and after February 9, 2003, all 17735
references in law to "the clerk of the probate court" shall be 17736
construed, with respect to Marion county, as being references to 17737
the judge who is serving pursuant to division (Z)(2) of this 17738
section as the clerk of the probate division of the court of 17739
common pleas of Marion county. 17740

(AA) In Muskingum county, the judge of the court of common 17741
pleas whose term begins on January 2, 2003, and successors, shall 17742
have the same qualifications, exercise the same powers and 17743
jurisdiction, and receive the same compensation as the other 17744
judges of the court of common pleas of Muskingum county and shall 17745
be elected and designated as the judge of the court of common 17746
pleas, division of domestic relations. The judge shall be assigned 17747
all divorce, dissolution of marriage, legal separation, and 17748
annulment cases, all cases arising under Chapter 3111. of the 17749
Revised Code, all proceedings involving child support, the 17750
allocation of parental rights and responsibilities for the care of 17751
children and the designation for the children of a place of 17752
residence and legal custodian, parenting time, and visitation, and 17753
all post-decree proceedings and matters arising from those cases 17754
and proceedings, except in cases that for some special reason are 17755
assigned to another judge of the court of common pleas. The judge 17756
shall be charged with the assignment and division of the work of 17757
the division and with the employment and supervision of the 17758
personnel of the division. 17759

The judge shall designate the title, compensation, expense 17760
allowances, hours, leaves of absence, and vacations of the 17761
personnel of the division and shall fix the duties of the 17762
personnel of the division. The duties of the personnel of the 17763
division, in addition to other statutory duties, shall include the 17764

handling, servicing, and investigation of divorce, dissolution of 17765
marriage, legal separation, and annulment cases, cases arising 17766
under Chapter 3111. of the Revised Code, and proceedings involving 17767
child support, the allocation of parental rights and 17768
responsibilities for the care of children and the designation for 17769
the children of a place of residence and legal custodian, 17770
parenting time, and visitation and providing any counseling and 17771
conciliation services that the division makes available to 17772
persons, whether or not the persons are parties to an action 17773
pending in the division, who request the services. 17774

(BB) In Henry county, the judge of the court of common pleas 17775
whose term begins on January 1, 2005, and successors, shall have 17776
the same qualifications, exercise the same powers and 17777
jurisdiction, and receive the same compensation as the other judge 17778
of the court of common pleas of Henry county and shall be elected 17779
and designated as the judge of the court of common pleas, division 17780
of domestic relations. The judge shall have all of the powers 17781
relating to juvenile courts, and all cases under Chapter 2151. or 17782
2152. of the Revised Code, all parentage proceedings arising under 17783
Chapter 3111. of the Revised Code over which the juvenile court 17784
has jurisdiction, all divorce, dissolution of marriage, legal 17785
separation, and annulment cases, all proceedings involving child 17786
support, the allocation of parental rights and responsibilities 17787
for the care of children and the designation for the children of a 17788
place of residence and legal custodian, parenting time, and 17789
visitation, and all post-decree proceedings and matters arising 17790
from those cases and proceedings shall be assigned to that judge, 17791
except in cases that for some special reason are assigned to the 17792
other judge of the court of common pleas. 17793

(CC)(1) In Logan county, the judge of the court of common 17794
pleas whose term begins January 2, 2005, and the successors to 17795
that judge, shall have the same qualifications, exercise the same 17796

powers and jurisdiction, and receive the same compensation as the 17797
other judges of the court of common pleas of Logan county and 17798
shall be elected and designated as judge of the court of common 17799
pleas, domestic relations-juvenile-probate division. Except as 17800
otherwise specified in this division, that judge, and the 17801
successors to that judge, shall have all the powers relating to 17802
juvenile courts, and all cases under Chapters 2151. and 2152. of 17803
the Revised Code, all cases arising under Chapter 3111. of the 17804
Revised Code, all divorce, dissolution of marriage, legal 17805
separation, and annulment cases, all proceedings involving child 17806
support, the allocation of parental rights and responsibilities 17807
for the care of children and designation for the children of a 17808
place of residence and legal custodian, parenting time, and 17809
visitation, and all post-decree proceedings and matters arising 17810
from those cases and proceedings shall be assigned to that judge 17811
and the successors to that judge. Notwithstanding any other 17812
provision of any section of the Revised Code, on and after January 17813
2, 2005, the judge of the court of common pleas of Logan county 17814
whose term begins on January 2, 2005, and the successors to that 17815
judge, shall have all the powers relating to the probate division 17816
of the court of common pleas of Logan county in addition to the 17817
powers previously specified in this division and shall exercise 17818
concurrent jurisdiction with the judge of the probate division of 17819
that court over all matters that are within the jurisdiction of 17820
the probate division of that court under Chapter 2101., and other 17821
provisions, of the Revised Code in addition to the jurisdiction of 17822
the domestic relations-juvenile-probate division of that court 17823
otherwise specified in division (CC)(1) of this section. 17824

(2) The judge of the domestic relations-juvenile-probate 17825
division of the court of common pleas of Logan county or the 17826
probate judge of the court of common pleas of Logan county who is 17827
elected as the administrative judge of the probate division of the 17828
court of common pleas of Logan county pursuant to Rule 4 of the 17829

Rules of Superintendence shall be the clerk of the probate 17830
division and juvenile division of the court of common pleas of 17831
Logan county. The clerk of the court of common pleas who is 17832
elected pursuant to section 2303.01 of the Revised Code shall keep 17833
all of the journals, records, books, papers, and files pertaining 17834
to the domestic relations cases. 17835

(3) On and after January 2, 2005, all references in law to 17836
"the probate court," "the probate judge," "the juvenile court," or 17837
"the judge of the juvenile court" shall be construed, with respect 17838
to Logan county, as being references to both "the probate 17839
division" and the "domestic relations-juvenile-probate division" 17840
and as being references to both "the judge of the probate 17841
division" and the "judge of the domestic 17842
relations-juvenile-probate division." On and after January 2, 17843
2005, all references in law to "the clerk of the probate court" 17844
shall be construed, with respect to Logan county, as being 17845
references to the judge who is serving pursuant to division 17846
(CC)(2) of this section as the clerk of the probate division of 17847
the court of common pleas of Logan county. 17848

(DD)(1) In Champaign county, the judge of the court of common 17849
pleas whose term begins February 9, 2003, and the judge of the 17850
court of common pleas whose term begins February 10, 2009, and the 17851
successors to those judges, shall have the same qualifications, 17852
exercise the same powers and jurisdiction, and receive the same 17853
compensation as the other judges of the court of common pleas of 17854
Champaign county and shall be elected and designated as judges of 17855
the court of common pleas, domestic relations-juvenile-probate 17856
division. Except as otherwise specified in this division, those 17857
judges, and the successors to those judges, shall have all the 17858
powers relating to juvenile courts, and all cases under Chapters 17859
2151. and 2152. of the Revised Code, all cases arising under 17860
Chapter 3111. of the Revised Code, all divorce, dissolution of 17861

marriage, legal separation, and annulment cases, all proceedings 17862
involving child support, the allocation of parental rights and 17863
responsibilities for the care of children and the designation for 17864
the children of a place of residence and legal custodian, 17865
parenting time, and visitation, and all post-decree proceedings 17866
and matters arising from those cases and proceedings shall be 17867
assigned to those judges and the successors to those judges. 17868
Notwithstanding any other provision of any section of the Revised 17869
Code, on and after February 9, 2009, the judges designated by this 17870
division as judges of the court of common pleas of Champaign 17871
county, domestic relations-juvenile-probate division, and the 17872
successors to those judges, shall have all the powers relating to 17873
probate courts in addition to the powers previously specified in 17874
this division and shall exercise jurisdiction over all matters 17875
that are within the jurisdiction of probate courts under Chapter 17876
2101., and other provisions, of the Revised Code in addition to 17877
the jurisdiction of the domestic relations-juvenile-probate 17878
division otherwise specified in division (DD)(1) of this section. 17879

(2) On and after February 9, 2009, all references in law to 17880
"the probate court," "the probate judge," "the juvenile court," or 17881
"the judge of the juvenile court" shall be construed with respect 17882
to Champaign county as being references to the "domestic 17883
relations-juvenile-probate division" and as being references to 17884
the "judge of the domestic relations-juvenile-probate division." 17885
On and after February 9, 2009, all references in law to "the clerk 17886
of the probate court" shall be construed with respect to Champaign 17887
county as being references to the judge who is serving pursuant to 17888
Rule 4 of the Rules of Superintendence for the Courts of Ohio as 17889
the administrative judge of the court of common pleas, domestic 17890
relations-juvenile-probate division. 17891

(EE) If a judge of the court of common pleas, division of 17892
domestic relations, or juvenile judge, of any of the counties 17893

mentioned in this section is sick, absent, or unable to perform 17894
that judge's judicial duties or the volume of cases pending in the 17895
judge's division necessitates it, the duties of that judge shall 17896
be performed by another judge of the court of common pleas of that 17897
county, assigned for that purpose by the presiding judge of the 17898
court of common pleas of that county to act in place of or in 17899
conjunction with that judge, as the case may require. 17900

Sec. 2301.18. The court of common pleas shall appoint a 17901
~~steonographic~~ reporter as the official ~~shorthand~~ reporter of ~~such~~ 17902
~~the~~ court, ~~who shall hold the appointment~~ for a term not exceeding 17903
three years ~~from the date thereof~~, unless removed by the court, 17904
after a good cause shown, for neglect of duty, misconduct in 17905
office, or incompetency. ~~Such~~ The court may appoint assistant 17906
reporters as the business of the court requires for terms not 17907
exceeding three years under one appointment. The official 17908
~~shorthand~~ reporter and assistant reporters shall take an oath 17909
faithfully and impartially to discharge the duties of ~~such~~ 17910
~~position~~ their positions. 17911

Sec. 2301.20. ~~Upon the trial of a~~ All civil ~~or~~ and criminal 17912
~~action~~ actions in the court of common pleas, ~~if either party to~~ 17913
~~the action or his attorney requests the services of a shorthand~~ 17914
~~reporter, the trial judge shall grant the request, or may order a~~ 17915
~~full report of the testimony or other proceedings. In either case,~~ 17916
~~the shorthand shall be recorded.~~ The reporter shall take accurate 17917
~~shorthand~~ notes of or electronically record the oral testimony ~~or~~ 17918
~~other oral proceedings.~~ The notes and electronic records shall be 17919
filed in the office of the official ~~shorthand~~ reporter and 17920
carefully preserved for either of the following periods of time: 17921

(A) If the action is not a capital case, the notes and 17922
electronic records shall be preserved for the period of time 17923
specified by the court of common pleas, which period of time shall 17924

not be longer than the period of time that the other records of 17925
the particular action are required to be kept+. 17926

(B) If the action is a capital case, the notes and electronic 17927
records shall be preserved for the longer of ten years or until 17928
the final disposition of the action and exhaustion of all appeals. 17929

Sec. 2301.21. In every case ~~reported~~ recorded as provided in 17930
section 2301.20 of the Revised Code, there shall be taxed for each 17931
day's service of the official or assistant ~~shorthand~~ reporters a 17932
fee of twenty-five dollars, to be collected as other costs in the 17933
case. The fees so collected shall be paid quarterly by the clerk 17934
of the court of common pleas in which the cases were tried into 17935
the treasury of the county and shall be credited by the county 17936
treasurer to the general fund. 17937

Sec. 2301.22. Each ~~shorthand~~ reporter shall receive ~~such the~~ 17938
compensation ~~as~~ that the court of common pleas making the 17939
appointment fixes. ~~Such~~ That compensation shall be in place of all 17940
per diem compensation in ~~such~~ those courts. In case ~~such the~~ 17941
appointment is for a term of less than one year, ~~such the~~ court 17942
may allow a per diem compensation to be fixed by the court, plus 17943
actual and necessary expenses incurred, for each day ~~such~~ 17944
~~shorthand~~ the reporter is actually engaged in taking testimony or 17945
performing other duties under the orders of ~~such the~~ court, which 17946
allowance shall be in full payment for all services so rendered. 17947

The county auditor shall issue warrants on the county 17948
treasurer for the payment of ~~such the~~ compensation under this 17949
section in equal monthly installments, ~~when~~ if the compensation is 17950
allowed annually, and ~~when~~ in case of services per diem, for the 17951
amount of the bill approved by the court, from the general fund 17952
upon the presentation of a certified copy of the journal entry of 17953
appointment and compensation of ~~such shorthand~~ the reporters. 17954

Sec. 2301.23. When ~~shorthand~~ notes have been taken or an 17955
electronic recording has been made in a case as provided in 17956
section 2301.20 of the Revised Code, if the court~~,~~ or either party 17957
to the suit ~~or his attorney,~~ requests written transcripts of any 17958
portion of ~~such notes in longhand~~ the proceeding, the ~~shorthand~~ 17959
reporter reporting the case shall make full and accurate 17960
transcripts of the notes ~~for the use of such court or party or~~ 17961
electronic recording. The court may direct the official ~~shorthand~~ 17962
reporter to furnish to the court and the parties copies of 17963
decisions rendered and charges delivered by the court in pending 17964
cases. 17965

When the compensation for transcripts, copies of decisions, 17966
or charges is taxed as a part of the costs, ~~such~~ the transcripts, 17967
copies of decisions, and charges shall remain on file with the 17968
papers of the case. 17969

Sec. 2301.24. The compensation of ~~shorthand~~ reporters for 17970
making written transcripts ~~and copies~~ as provided in section 17971
2301.23 of the Revised Code shall be fixed by ~~the judges of the~~ 17972
court of common pleas of the county wherein in which the trial is 17973
~~had held~~. Such If more than one transcript of the same testimony 17974
or proceeding is ordered, the reporter shall make copies of the 17975
transcript at cost pursuant to division (B)(1) of section 149.43 17976
of the Revised Code or shall provide an electronic copy of the 17977
transcript free of charge. The compensation shall be paid 17978
~~forthwith~~ by the party for whose benefit a transcript is made. The 17979
compensation for transcripts ~~of testimony~~ requested by the 17980
prosecuting attorney ~~during trial~~ or an indigent defendant in 17981
criminal cases or by the trial judge~~,~~ in either civil or criminal 17982
cases, and for copies of decisions and charges furnished by 17983
direction of the court shall be paid from the county treasury~~,~~ and 17984
taxed and collected as costs. 17985

Sec. 2301.25. When ordered by the prosecuting attorney or the 17986
defendant in a criminal ~~trial, case~~ or when ordered by a judge of 17987
the court of common pleas ~~for his use,~~ in either civil or criminal 17988
cases, the costs of transcripts ~~mentioned in section 2301.23 of~~ 17989
~~the Revised Code,~~ shall be taxed as costs in the case, collected 17990
as other costs, whether ~~such~~ the transcripts have been prepaid or 17991
not, as provided by section 2301.24 of the Revised Code, ~~and~~ paid 17992
by the clerk of the court of common pleas, quarterly, into the 17993
county treasury, and credited to the general fund. If, upon final 17994
judgment, the costs or any part ~~thereof shall be~~ of the costs are 17995
adjudged against a defendant in a criminal case, ~~he~~ the defendant 17996
shall be allowed credit on the cost bill of the amount paid ~~by him~~ 17997
for the transcript ~~he~~ the defendant ordered and, if the costs are 17998
finally adjudged against the state, the defendant shall have ~~his~~ 17999
the defendant's deposit refunded. ~~When more than one transcript of~~ 18000
~~the same testimony or proceedings is ordered at the same time by~~ 18001
~~the same party, or by the court, the compensation for making such~~ 18002
~~additional transcript shall be one half the compensation allowed~~ 18003
~~for the first copy, and shall be paid for in the same manner~~ 18004
~~except that where ordered by the same party only the cost of the~~ 18005
~~original shall be taxed as costs.~~ All ~~such~~ transcripts shall be 18006
taken and received as prima-facie evidence of their correctness. 18007
~~When~~ If the testimony of witnesses is taken before the grand jury 18008
by ~~shorthand~~ reporters, they shall receive for ~~such~~ the 18009
transcripts ~~as are ordered by the prosecuting attorney~~ the same 18010
compensation ~~per folio~~ and be paid ~~therefor~~ in the same manner as 18011
provided in this section and section 2301.24 of the Revised Code. 18012
18013

Sec. 2301.26. ~~Shorthand reporters~~ Reporters appointed under 18014
~~sections~~ section 2301.18 ~~and 2301.19~~ of the Revised Code, may be 18015
appointed referees to take and report evidence in causes pending 18016

in any of the courts of this state. In the taking of evidence as 18017
~~such~~ referees, ~~they~~ the reporters may administer oaths to 18018
witnesses. They shall be furnished by the board of county 18019
commissioners with a suitable room in the courthouse, and with 18020
~~stationery~~, supplies and ~~other~~ equipment necessary in for the 18021
proper discharge of their duties and for the preservation of their 18022
~~stenographic~~ notes and electronic records. ~~Such~~ The notes and 18023
electronic records shall be the property of the county and 18024
carefully preserved in the office of the ~~shorthand~~ reporters. 18025

Sec. 2301.27. (A)(1)(a) The court of common pleas may 18026
establish a county department of probation. The establishment of 18027
the department shall be entered upon the journal of the court, and 18028
the clerk of the court of common pleas shall certify a copy of the 18029
journal entry establishing the department to each elective officer 18030
and board of the county. The department shall consist of a chief 18031
probation officer and the number of other probation officers and 18032
employees, clerks, and stenographers that is fixed from time to 18033
time by the court. The court shall appoint those individuals, fix 18034
their salaries, and supervise their work. 18035

(b) When appointing a chief probation officer, the court 18036
shall do all of the following: 18037

(i) Publicly advertise the position on the court's web site, 18038
including, but not limited to, the job description, qualifications 18039
for the position, and the application requirements; 18040

(ii) Conduct a competitive hiring process that adheres to 18041
state and federal equal employment opportunity laws; 18042

(iii) Review applicants who meet the posted qualifications 18043
and comply with the application requirements. 18044

(c) The court shall not appoint as a probation officer any 18045
person who does not possess the training, experience, and other 18046

qualifications prescribed by the adult parole authority created by 18047
section 5149.02 of the Revised Code. Probation officers have all 18048
the powers of regular police officers and shall perform any duties 18049
that are designated by the judge or judges of the court. All 18050
positions within the department of probation shall be in the 18051
classified service of the civil service of the county. 18052

(2) If two or more counties desire to jointly establish a 18053
probation department for those counties, the judges of the courts 18054
of common pleas of those counties may establish a probation 18055
department for those counties. If a probation department is 18056
established pursuant to division (A)(2) of this section to serve 18057
more than one county, the judges of the courts of common pleas 18058
that established the department shall designate the county 18059
treasurer of one of the counties served by the department as the 18060
treasurer to whom probation fees paid under section 2951.021 of 18061
the Revised Code are to be appropriated and transferred under 18062
division (A)(2) of section 321.44 of the Revised Code for deposit 18063
into the multicounty probation services fund established under 18064
division (B) of section 321.44 of the Revised Code. 18065

The cost of the administration and operation of a probation 18066
department established for two or more counties shall be prorated 18067
to the respective counties on the basis of population. 18068

(3) Probation officers shall receive, in addition to their 18069
respective salaries, their necessary and reasonable travel and 18070
other expenses incurred in the performance of their duties. Their 18071
salaries and expenses shall be paid monthly from the county 18072
treasury in the manner provided for the payment of the 18073
compensation of other appointees of the court. 18074

(4) ~~Probation~~ Adult probation officers shall be trained in 18075
accordance with a set of minimum standards that are established by 18076
the adult parole authority of the department of rehabilitation and 18077
correction. 18078

(B)(1) In lieu of establishing a county department of probation under division (A) of this section and in lieu of entering into an agreement with the adult parole authority as described in division (B) of section 2301.32 of the Revised Code, the court of common pleas may request the board of county commissioners to contract with, and upon that request the board may contract with, any nonprofit, public or private agency, association, or organization for the provision of probation services and supervisory services for persons placed under community control sanctions. The contract shall specify that each individual providing the probation services and supervisory services shall possess the training, experience, and other qualifications prescribed by the adult parole authority. The individuals who provide the probation services and supervisory services shall not be included in the classified or unclassified civil service of the county.

(2) In lieu of establishing a county department of probation under division (A) of this section and in lieu of entering into an agreement with the adult parole authority as described in division (B) of section 2301.32 of the Revised Code, the courts of common pleas of two or more adjoining counties jointly may request the boards of county commissioners of those counties to contract with, and upon that request the boards of county commissioners of two or more adjoining counties jointly may contract with, any nonprofit, public or private agency, association, or organization for the provision of probation services and supervisory services for persons placed under community control sanctions for those counties. The contract shall specify that each individual providing the probation services and supervisory services shall possess the training, experience, and other qualifications prescribed by the adult parole authority. The individuals who provide the probation services and supervisory services shall not be included in the classified or unclassified civil service of any

of those counties. 18112

(C) The chief probation officer may grant permission to a 18113
probation officer to carry firearms when required in the discharge 18114
of official duties if the probation officer has successfully 18115
completed a basic firearm training program that is approved by the 18116
executive director of the Ohio peace officer training commission. 18117
A probation officer who has been granted permission to carry a 18118
firearm in the discharge of official duties, annually shall 18119
successfully complete a firearms requalification program in 18120
accordance with section 109.801 of the Revised Code. 18121

(D) As used in this section and sections 2301.28 to 2301.32 18122
of the Revised Code, "community control sanction" has the same 18123
meaning as in section 2929.01 of the Revised Code. 18124

Sec. 2301.271. (A) The adult parole authority of the 18125
department of rehabilitation and correction shall develop minimum 18126
standards for the training of adult probation officers as provided 18127
by section 2301.27 of the Revised Code. The adult parole authority 18128
shall consult and collaborate with the supreme court in developing 18129
the standards. 18130

(B) Within six months after ~~the effective date of this~~ 18131
~~section~~ September 30, 2011, the department of rehabilitation and 18132
correction shall make available a copy of the minimum standards to 18133
the following entities: 18134

(1) Every municipal court, county court, and court of common 18135
pleas; 18136

(2) Every probation department. 18137

Sec. 2301.571. (A) A person who has been convicted of or 18138
pleaded guilty to an offense and who is confined in a 18139
community-based correctional facility or district community-based 18140
correctional facility, ~~unless indigent,~~ is financially responsible 18141

for the payment of any medical expense or service requested by and 18142
provided to that person. 18143

(B) ~~Notwithstanding any contrary provision of section 2929.38~~ 18144
~~of the Revised Code, the facility governing board of a~~ 18145
~~community based correctional facility or district community based~~ 18146
~~correctional facility shall establish a policy that requires any~~ 18147
~~person who is not indigent and who is confined in the correctional~~ 18148
~~facility to pay for any medical treatment or service requested by~~ 18149
~~and provided to that person. The fee for the medical treatment or~~ 18150
~~service shall not exceed the actual cost of the treatment or~~ 18151
~~service provided.~~ No person confined in a community-based 18152
correctional facility or district community-based correctional 18153
facility shall be denied any necessary medical care because of 18154
inability to pay for medical treatment or service. 18155

(C) ~~Any fee paid by a person under~~ Nothing in this section 18156
~~shall be deducted from~~ cause a community-based correctional 18157
facility or district community-based correctional facility to be 18158
responsible for the payment of any medical or dental costs that 18159
~~the person is ordered to reimburse under a financial sanction~~ 18160
~~imposed pursuant to section 2929.28 of the Revised Code or to~~ 18161
~~repay under a policy adopted under~~ other health care expenses 18162
incurred in connection with an offender who is serving a term in 18163
the facility pursuant to section 2929.37 2929.16 of the Revised 18164
Code. 18165

Sec. 2305.01. Except as otherwise provided by this section or 18166
section 2305.03 of the Revised Code, the court of common pleas has 18167
original jurisdiction in all civil cases in which the sum or 18168
matter in dispute exceeds the exclusive original jurisdiction of 18169
county courts and appellate jurisdiction from the decisions of 18170
boards of county commissioners. The court of common pleas shall 18171
not have jurisdiction, in any tort action to which the amounts 18172

apply, to award punitive or exemplary damages that exceed the 18173
amounts set forth in section 2315.21 of the Revised Code. The 18174
court of common pleas shall not have jurisdiction in any tort 18175
action to which the limits apply to enter judgment on an award of 18176
compensatory damages for noneconomic loss in excess of the limits 18177
set forth in section 2315.18 of the Revised Code. 18178

The court of common pleas may on its own motion transfer for 18179
trial any action in the court to any municipal court in the county 18180
having concurrent jurisdiction of the subject matter of, and the 18181
parties to, the action, if the amount sought by the plaintiff does 18182
not exceed one thousand dollars and if the judge or presiding 18183
judge of the municipal court concurs in the proposed transfer. 18184
Upon the issuance of an order of transfer, the clerk of courts 18185
shall remove to the designated municipal court the entire case 18186
file. Any untaxed portion of the common pleas deposit for court 18187
costs shall be remitted to the municipal court by the clerk of 18188
courts to be applied in accordance with section 1901.26 of the 18189
Revised Code, and the costs taxed by the municipal court shall be 18190
added to any costs taxed in the common pleas court. 18191

The court of common pleas has jurisdiction in any action 18192
brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the 18193
Revised Code if the residential premises that are the subject of 18194
the action are located within the territorial jurisdiction of the 18195
court. 18196

The courts of common pleas of Adams, Athens, Belmont, Brown, 18197
Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, 18198
Meigs, Monroe, Scioto, and Washington counties have jurisdiction 18199
beyond the north or northwest shore of the Ohio river extending to 18200
the opposite shore line, between the extended boundary lines of 18201
any adjacent counties or adjacent state. Each of those courts of 18202
common pleas has concurrent jurisdiction on the Ohio river with 18203

any adjacent court of common pleas that borders on that river and 18204
with any court of Kentucky or of West Virginia that borders on the 18205
Ohio river and that has jurisdiction on the Ohio river under the 18206
law of Kentucky or the law of West Virginia, whichever is 18207
applicable, or under federal law. 18208

Sec. 2305.02. A The court of common pleas in the county where 18209
the underlying criminal action was initiated has exclusive, 18210
original jurisdiction to hear and determine ~~an~~ a civil action or 18211
proceeding that is commenced by an individual who seeks a 18212
determination by that court that the individual satisfies 18213
divisions (A)(1) to ~~(4)~~(6) of section 2743.48 of the Revised Code 18214
and ~~that seeks a determination by the court that the offense of~~ 18215
~~which he was found guilty, including all lesser included offenses,~~ 18216
~~either was not committed by him or was not committed by any~~ 18217
~~person.~~ If ~~the~~ that court enters the requested determination, it 18218
shall comply with division (B) of that section. 18219

Sec. 2307.89. The following apply to all tort actions for 18220
silicosis or mixed dust disease claims brought against a premises 18221
owner to recover damages or other relief for exposure to silica or 18222
mixed dust on the premises owner's property: 18223

(A) A premises owner is not liable for any injury to any 18224
individual resulting from silica or mixed dust exposure unless 18225
that individual's alleged exposure occurred while the individual 18226
was at the premises owner's property. 18227

(B) If exposure to silica or mixed dust is alleged to have 18228
occurred before January 1, 1972, it is presumed that a premises 18229
owner knew that this state had adopted safe levels of exposure for 18230
silica or mixed dust and that products containing silica or mixed 18231
dust were used on its property only at levels below those safe 18232
levels of exposure. To rebut this presumption, the plaintiff must 18233

prove by a preponderance of the evidence that the premises owner 18234
knew or should have known that the levels of silica or mixed dust 18235
in the immediate breathing zone of the plaintiff regularly 18236
exceeded the threshold limit values adopted by this state and that 18237
the premises owner allowed that condition to persist. 18238

(C)(1) A premises owner is presumed to be not liable for any 18239
injury to any invitee who was engaged to work with, install, or 18240
remove products containing silica or mixed dust on the premises 18241
owner's property if the invitee's employer held itself out as 18242
qualified to perform the work. To rebut this presumption, the 18243
plaintiff must demonstrate by a preponderance of the evidence that 18244
the premises owner had actual knowledge of the potential dangers 18245
of the products containing silica or mixed dust at the time of the 18246
alleged exposure that was superior to the knowledge of both the 18247
invitee and the invitee's employer. 18248

(2) A premises owner that hired a contractor before January 18249
1, 1972, to perform the type of work at the premises owner's 18250
property that the contractor was qualified to perform cannot be 18251
liable for any injury to any individual resulting from silica or 18252
mixed dust exposure caused by any of the contractor's employees or 18253
agents on the premises owner's property unless the premises owner 18254
directed the activity that resulted in the injury or gave or 18255
denied permission for the critical acts that led to the 18256
individual's injury. 18257

(3) If exposure to silica or mixed dust is alleged to have 18258
occurred after January 1, 1972, a premises owner is not liable for 18259
any injury to any individual resulting from that exposure caused 18260
by a contractor's employee or agent on the premises owner's 18261
property unless the plaintiff establishes the premises owner's 18262
intentional violation of an established safety standard that was 18263
in effect at the time of the exposure and that the alleged 18264
violation was in the plaintiff's breathing zone and was the 18265

proximate cause of the plaintiff's medical condition. 18266

(D) As used in this section: 18267

(1) "Threshold limit values" means the maximum allowable 18268
concentration of silica, or other dust, set forth in regulation 18269
247 of the "regulations for the prevention and control of diseases 18270
resulting from exposure to toxic fumes, vapors, mists, gases, and 18271
dusts in order to preserve and protect the public health," as 18272
adopted by the former public health council of the department of 18273
health on January 1, 1947, and set forth by the industrial 18274
commission of Ohio in bulletin no. 203, "specific requirements and 18275
general safety standards of the industrial commission of Ohio for 18276
work shops and factories, chapter XV, ventilation and exhausts," 18277
effective January 3, 1955. 18278

(2) "Established safety standard" means that, for the years 18279
after 1971, the concentration of silica or mixed dust in the 18280
breathing zone of the worker does not exceed the maximum allowable 18281
exposure limits for the eight-hour time-weighted average airborne 18282
concentration as promulgated by the occupational safety and health 18283
administration (OSHA) in effect at the time of the alleged 18284
exposure. 18285

(3) "Employee" means an individual who performs labor or 18286
provides construction services pursuant to a construction 18287
contract, as defined in section 4123.79 of the Revised Code, or a 18288
remodeling or repair contract, whether written or oral, if at 18289
least ten of the following criteria apply: 18290

(a) The individual is required to comply with instructions 18291
from the other contracting party regarding the manner or method of 18292
performing services. 18293

(b) The individual is required by the other contracting party 18294
to have particular training. 18295

(c) The individual's services are integrated into the regular 18296

| | |
|---|-------------------------|
| functioning of the other contracting party. | 18297 |
| (d) The individual is required to perform the work personally. | 18298 18299 |
| (e) The individual is hired, supervised, or paid by the other contracting party. | 18300 18301 |
| (f) A continuing relationship exists between the individual and the other contracting party that contemplates continuing or recurring work even if the work is not full time. | 18302 18303 18304 |
| (g) The individual's hours of work are established by the other contracting party. | 18305 18306 |
| (h) The individual is required to devote full time to the business of the other contracting party. | 18307 18308 |
| (i) The individual is required to perform the work on the premises of the other contracting party. | 18309 18310 |
| (j) The individual is required to follow the order of work set by the other contracting party. | 18311 18312 |
| (k) The individual is required to make oral or written reports of progress to the other contracting party. | 18313 18314 |
| (l) The individual is paid for services on a regular basis, including hourly, weekly, or monthly. | 18315 18316 |
| (m) The individual's expenses are paid for by the other contracting party. | 18317 18318 |
| (n) The individual's tools and materials are furnished by the other contracting party. | 18319 18320 |
| (o) The individual is provided with the facilities used to perform services. | 18321 18322 |
| (p) The individual does not realize a profit or suffer a loss as a result of the services provided. | 18323 18324 |
| (q) The individual is not performing services for a number of | 18325 |

employers at the same time. 18326

(r) The individual does not make the same services available 18327
to the general public. 18328

(s) The other contracting party has a right to discharge the 18329
individual. 18330

(t) The individual has the right to end the relationship with 18331
the other contracting party without incurring liability pursuant 18332
to an employment contract or agreement. 18333

Sec. 2317.02. The following persons shall not testify in 18334
certain respects: 18335

(A)(1) An attorney, concerning a communication made to the 18336
attorney by a client in that relation or the attorney's advice to 18337
a client, except that the attorney may testify by express consent 18338
of the client or, if the client is deceased, by the express 18339
consent of the surviving spouse or the executor or administrator 18340
of the estate of the deceased client. However, if the client 18341
voluntarily testifies or is deemed by section 2151.421 of the 18342
Revised Code to have waived any testimonial privilege under this 18343
division, the attorney may be compelled to testify on the same 18344
subject. 18345

The testimonial privilege established under this division 18346
does not apply concerning a communication between a client who has 18347
since died and the deceased client's attorney if the communication 18348
is relevant to a dispute between parties who claim through that 18349
deceased client, regardless of whether the claims are by testate 18350
or intestate succession or by inter vivos transaction, and the 18351
dispute addresses the competency of the deceased client when the 18352
deceased client executed a document that is the basis of the 18353
dispute or whether the deceased client was a victim of fraud, 18354
undue influence, or duress when the deceased client executed a 18355

document that is the basis of the dispute. 18356

(2) An attorney, concerning a communication made to the 18357
attorney by a client in that relationship or the attorney's advice 18358
to a client, except that if the client is an insurance company, 18359
the attorney may be compelled to testify, subject to an in camera 18360
inspection by a court, about communications made by the client to 18361
the attorney or by the attorney to the client that are related to 18362
the attorney's aiding or furthering an ongoing or future 18363
commission of bad faith by the client, if the party seeking 18364
disclosure of the communications has made a prima_facie showing of 18365
bad faith, fraud, or criminal misconduct by the client. 18366

(B)(1) A physician or a dentist concerning a communication 18367
made to the physician or dentist by a patient in that relation or 18368
the physician's or dentist's advice to a patient, except as 18369
otherwise provided in this division, division (B)(2), and division 18370
(B)(3) of this section, and except that, if the patient is deemed 18371
by section 2151.421 of the Revised Code to have waived any 18372
testimonial privilege under this division, the physician may be 18373
compelled to testify on the same subject. 18374

The testimonial privilege established under this division 18375
does not apply, and a physician or dentist may testify or may be 18376
compelled to testify, in any of the following circumstances: 18377

(a) In any civil action, in accordance with the discovery 18378
provisions of the Rules of Civil Procedure in connection with a 18379
civil action, or in connection with a claim under Chapter 4123. of 18380
the Revised Code, under any of the following circumstances: 18381

(i) If the patient or the guardian or other legal 18382
representative of the patient gives express consent; 18383

(ii) If the patient is deceased, the spouse of the patient or 18384
the executor or administrator of the patient's estate gives 18385
express consent; 18386

(iii) If a medical claim, dental claim, chiropractic claim, 18387
or optometric claim, as defined in section 2305.113 of the Revised 18388
Code, an action for wrongful death, any other type of civil 18389
action, or a claim under Chapter 4123. of the Revised Code is 18390
filed by the patient, the personal representative of the estate of 18391
the patient if deceased, or the patient's guardian or other legal 18392
representative. 18393

(b) In any civil action concerning court-ordered treatment or 18394
services received by a patient, if the court-ordered treatment or 18395
services were ordered as part of a case plan journalized under 18396
section 2151.412 of the Revised Code or the court-ordered 18397
treatment or services are necessary or relevant to dependency, 18398
neglect, or abuse or temporary or permanent custody proceedings 18399
under Chapter 2151. of the Revised Code. 18400

(c) In any criminal action concerning any test or the results 18401
of any test that determines the presence or concentration of 18402
alcohol, a drug of abuse, a combination of them, a controlled 18403
substance, or a metabolite of a controlled substance in the 18404
patient's whole blood, blood serum or plasma, breath, urine, or 18405
other bodily substance at any time relevant to the criminal 18406
offense in question. 18407

(d) In any criminal action against a physician or dentist. In 18408
such an action, the testimonial privilege established under this 18409
division does not prohibit the admission into evidence, in 18410
accordance with the Rules of Evidence, of a patient's medical or 18411
dental records or other communications between a patient and the 18412
physician or dentist that are related to the action and obtained 18413
by subpoena, search warrant, or other lawful means. A court that 18414
permits or compels a physician or dentist to testify in such an 18415
action or permits the introduction into evidence of patient 18416
records or other communications in such an action shall require 18417
that appropriate measures be taken to ensure that the 18418

confidentiality of any patient named or otherwise identified in 18419
the records is maintained. Measures to ensure confidentiality that 18420
may be taken by the court include sealing its records or deleting 18421
specific information from its records. 18422

(e)(i) If the communication was between a patient who has 18423
since died and the deceased patient's physician or dentist, the 18424
communication is relevant to a dispute between parties who claim 18425
through that deceased patient, regardless of whether the claims 18426
are by testate or intestate succession or by inter vivos 18427
transaction, and the dispute addresses the competency of the 18428
deceased patient when the deceased patient executed a document 18429
that is the basis of the dispute or whether the deceased patient 18430
was a victim of fraud, undue influence, or duress when the 18431
deceased patient executed a document that is the basis of the 18432
dispute. 18433

(ii) If neither the spouse of a patient nor the executor or 18434
administrator of that patient's estate gives consent under 18435
division (B)(1)(a)(ii) of this section, testimony or the 18436
disclosure of the patient's medical records by a physician, 18437
dentist, or other health care provider under division (B)(1)(e)(i) 18438
of this section is a permitted use or disclosure of protected 18439
health information, as defined in 45 C.F.R. 160.103, and an 18440
authorization or opportunity to be heard shall not be required. 18441

(iii) Division (B)(1)(e)(i) of this section does not require 18442
a mental health professional to disclose psychotherapy notes, as 18443
defined in 45 C.F.R. 164.501. 18444

(iv) An interested person who objects to testimony or 18445
disclosure under division (B)(1)(e)(i) of this section may seek a 18446
protective order pursuant to Civil Rule 26. 18447

(v) A person to whom protected health information is 18448
disclosed under division (B)(1)(e)(i) of this section shall not 18449

use or disclose the protected health information for any purpose 18450
other than the litigation or proceeding for which the information 18451
was requested and shall return the protected health information to 18452
the covered entity or destroy the protected health information, 18453
including all copies made, at the conclusion of the litigation or 18454
proceeding. 18455

(2)(a) If any law enforcement officer submits a written 18456
statement to a health care provider that states that an official 18457
criminal investigation has begun regarding a specified person or 18458
that a criminal action or proceeding has been commenced against a 18459
specified person, that requests the provider to supply to the 18460
officer copies of any records the provider possesses that pertain 18461
to any test or the results of any test administered to the 18462
specified person to determine the presence or concentration of 18463
alcohol, a drug of abuse, a combination of them, a controlled 18464
substance, or a metabolite of a controlled substance in the 18465
person's whole blood, blood serum or plasma, breath, or urine at 18466
any time relevant to the criminal offense in question, and that 18467
conforms to section 2317.022 of the Revised Code, the provider, 18468
except to the extent specifically prohibited by any law of this 18469
state or of the United States, shall supply to the officer a copy 18470
of any of the requested records the provider possesses. If the 18471
health care provider does not possess any of the requested 18472
records, the provider shall give the officer a written statement 18473
that indicates that the provider does not possess any of the 18474
requested records. 18475

(b) If a health care provider possesses any records of the 18476
type described in division (B)(2)(a) of this section regarding the 18477
person in question at any time relevant to the criminal offense in 18478
question, in lieu of personally testifying as to the results of 18479
the test in question, the custodian of the records may submit a 18480
certified copy of the records, and, upon its submission, the 18481

certified copy is qualified as authentic evidence and may be 18482
admitted as evidence in accordance with the Rules of Evidence. 18483
Division (A) of section 2317.422 of the Revised Code does not 18484
apply to any certified copy of records submitted in accordance 18485
with this division. Nothing in this division shall be construed to 18486
limit the right of any party to call as a witness the person who 18487
administered the test to which the records pertain, the person 18488
under whose supervision the test was administered, the custodian 18489
of the records, the person who made the records, or the person 18490
under whose supervision the records were made. 18491

(3)(a) If the testimonial privilege described in division 18492
(B)(1) of this section does not apply as provided in division 18493
(B)(1)(a)(iii) of this section, a physician or dentist may be 18494
compelled to testify or to submit to discovery under the Rules of 18495
Civil Procedure only as to a communication made to the physician 18496
or dentist by the patient in question in that relation, or the 18497
physician's or dentist's advice to the patient in question, that 18498
related causally or historically to physical or mental injuries 18499
that are relevant to issues in the medical claim, dental claim, 18500
chiropractic claim, or optometric claim, action for wrongful 18501
death, other civil action, or claim under Chapter 4123. of the 18502
Revised Code. 18503

(b) If the testimonial privilege described in division (B)(1) 18504
of this section does not apply to a physician or dentist as 18505
provided in division (B)(1)(c) of this section, the physician or 18506
dentist, in lieu of personally testifying as to the results of the 18507
test in question, may submit a certified copy of those results, 18508
and, upon its submission, the certified copy is qualified as 18509
authentic evidence and may be admitted as evidence in accordance 18510
with the Rules of Evidence. Division (A) of section 2317.422 of 18511
the Revised Code does not apply to any certified copy of results 18512
submitted in accordance with this division. Nothing in this 18513

division shall be construed to limit the right of any party to 18514
call as a witness the person who administered the test in 18515
question, the person under whose supervision the test was 18516
administered, the custodian of the results of the test, the person 18517
who compiled the results, or the person under whose supervision 18518
the results were compiled. 18519

(4) The testimonial privilege described in division (B)(1) of 18520
this section is not waived when a communication is made by a 18521
physician to a pharmacist or when there is communication between a 18522
patient and a pharmacist in furtherance of the physician-patient 18523
relation. 18524

(5)(a) As used in divisions (B)(1) to (4) of this section, 18525
"communication" means acquiring, recording, or transmitting any 18526
information, in any manner, concerning any facts, opinions, or 18527
statements necessary to enable a physician or dentist to diagnose, 18528
treat, prescribe, or act for a patient. A "communication" may 18529
include, but is not limited to, any medical or dental, office, or 18530
hospital communication such as a record, chart, letter, 18531
memorandum, laboratory test and results, x-ray, photograph, 18532
financial statement, diagnosis, or prognosis. 18533

(b) As used in division (B)(2) of this section, "health care 18534
provider" means a hospital, ambulatory care facility, long-term 18535
care facility, pharmacy, emergency facility, or health care 18536
practitioner. 18537

(c) As used in division (B)(5)(b) of this section: 18538

(i) "Ambulatory care facility" means a facility that provides 18539
medical, diagnostic, or surgical treatment to patients who do not 18540
require hospitalization, including a dialysis center, ambulatory 18541
surgical facility, cardiac catheterization facility, diagnostic 18542
imaging center, extracorporeal shock wave lithotripsy center, home 18543
health agency, inpatient hospice, birthing center, radiation 18544

therapy center, emergency facility, and an urgent care center. 18545

"Ambulatory health care facility" does not include the private 18546
office of a physician or dentist, whether the office is for an 18547
individual or group practice. 18548

(ii) "Emergency facility" means a hospital emergency 18549
department or any other facility that provides emergency medical 18550
services. 18551

(iii) "Health care practitioner" has the same meaning as in 18552
section 4769.01 of the Revised Code. 18553

(iv) "Hospital" has the same meaning as in section 3727.01 of 18554
the Revised Code. 18555

(v) "Long-term care facility" means a nursing home, 18556
residential care facility, or home for the aging, as those terms 18557
are defined in section 3721.01 of the Revised Code; ~~an adult care~~ 18558
a residential facility, as defined in licensed under 18559
5119.70 5119.22 of the Revised Code that provides accommodations, 18560
supervision, and personal care services for three to sixteen 18561
unrelated adults; a nursing facility or intermediate care facility 18562
for the mentally retarded, as those terms are defined in section 18563
5111.20 of the Revised Code; a facility or portion of a facility 18564
certified as a skilled nursing facility under Title XVIII of the 18565
"Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as 18566
amended. 18567

(vi) "Pharmacy" has the same meaning as in section 4729.01 of 18568
the Revised Code. 18569

(d) As used in divisions (B)(1) and (2) of this section, 18570
"drug of abuse" has the same meaning as in section 4506.01 of the 18571
Revised Code. 18572

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section 18573
apply to doctors of medicine, doctors of osteopathic medicine, 18574
doctors of podiatry, and dentists. 18575

(7) Nothing in divisions (B)(1) to (6) of this section 18576
affects, or shall be construed as affecting, the immunity from 18577
civil liability conferred by section 307.628 of the Revised Code 18578
or the immunity from civil liability conferred by section 2305.33 18579
of the Revised Code upon physicians who report an employee's use 18580
of a drug of abuse, or a condition of an employee other than one 18581
involving the use of a drug of abuse, to the employer of the 18582
employee in accordance with division (B) of that section. As used 18583
in division (B)(7) of this section, "employee," "employer," and 18584
"physician" have the same meanings as in section 2305.33 of the 18585
Revised Code. 18586

(C)(1) A cleric, when the cleric remains accountable to the 18587
authority of that cleric's church, denomination, or sect, 18588
concerning a confession made, or any information confidentially 18589
communicated, to the cleric for a religious counseling purpose in 18590
the cleric's professional character. The cleric may testify by 18591
express consent of the person making the communication, except 18592
when the disclosure of the information is in violation of a sacred 18593
trust and except that, if the person voluntarily testifies or is 18594
deemed by division (A)(4)(c) of section 2151.421 of the Revised 18595
Code to have waived any testimonial privilege under this division, 18596
the cleric may be compelled to testify on the same subject except 18597
when disclosure of the information is in violation of a sacred 18598
trust. 18599

(2) As used in division (C) of this section: 18600

(a) "Cleric" means a member of the clergy, rabbi, priest, 18601
Christian Science practitioner, or regularly ordained, accredited, 18602
or licensed minister of an established and legally cognizable 18603
church, denomination, or sect. 18604

(b) "Sacred trust" means a confession or confidential 18605
communication made to a cleric in the cleric's ecclesiastical 18606
capacity in the course of discipline enjoined by the church to 18607

which the cleric belongs, including, but not limited to, the Catholic Church, if both of the following apply:

(i) The confession or confidential communication was made directly to the cleric.

(ii) The confession or confidential communication was made in the manner and context that places the cleric specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine.

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a professional clinical counselor, professional counselor, social worker, independent social worker, marriage and family therapist or independent marriage and family therapist, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a

confidential communication received from a client in that relation 18639
or the person's advice to a client unless any of the following 18640
applies: 18641

(a) The communication or advice indicates clear and present 18642
danger to the client or other persons. For the purposes of this 18643
division, cases in which there are indications of present or past 18644
child abuse or neglect of the client constitute a clear and 18645
present danger. 18646

(b) The client gives express consent to the testimony. 18647

(c) If the client is deceased, the surviving spouse or the 18648
executor or administrator of the estate of the deceased client 18649
gives express consent. 18650

(d) The client voluntarily testifies, in which case the 18651
school guidance counselor or person licensed or registered under 18652
Chapter 4757. of the Revised Code may be compelled to testify on 18653
the same subject. 18654

(e) The court in camera determines that the information 18655
communicated by the client is not germane to the counselor-client, 18656
marriage and family therapist-client, or social worker-client 18657
relationship. 18658

(f) A court, in an action brought against a school, its 18659
administration, or any of its personnel by the client, rules after 18660
an in-camera inspection that the testimony of the school guidance 18661
counselor is relevant to that action. 18662

(g) The testimony is sought in a civil action and concerns 18663
court-ordered treatment or services received by a patient as part 18664
of a case plan journalized under section 2151.412 of the Revised 18665
Code or the court-ordered treatment or services are necessary or 18666
relevant to dependency, neglect, or abuse or temporary or 18667
permanent custody proceedings under Chapter 2151. of the Revised 18668
Code. 18669

(2) Nothing in division (G)(1) of this section shall relieve 18670
a school guidance counselor or a person licensed or registered 18671
under Chapter 4757. of the Revised Code from the requirement to 18672
report information concerning child abuse or neglect under section 18673
2151.421 of the Revised Code. 18674

(H) A mediator acting under a mediation order issued under 18675
division (A) of section 3109.052 of the Revised Code or otherwise 18676
issued in any proceeding for divorce, dissolution, legal 18677
separation, annulment, or the allocation of parental rights and 18678
responsibilities for the care of children, in any action or 18679
proceeding, other than a criminal, delinquency, child abuse, child 18680
neglect, or dependent child action or proceeding, that is brought 18681
by or against either parent who takes part in mediation in 18682
accordance with the order and that pertains to the mediation 18683
process, to any information discussed or presented in the 18684
mediation process, to the allocation of parental rights and 18685
responsibilities for the care of the parents' children, or to the 18686
awarding of parenting time rights in relation to their children; 18687

(I) A communications assistant, acting within the scope of 18688
the communication assistant's authority, when providing 18689
telecommunications relay service pursuant to section 4931.06 of 18690
the Revised Code or Title II of the "Communications Act of 1934," 18691
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication 18692
made through a telecommunications relay service. Nothing in this 18693
section shall limit the obligation of a communications assistant 18694
to divulge information or testify when mandated by federal law or 18695
regulation or pursuant to subpoena in a criminal proceeding. 18696

Nothing in this section shall limit any immunity or privilege 18697
granted under federal law or regulation. 18698

(J)(1) A chiropractor in a civil proceeding concerning a 18699
communication made to the chiropractor by a patient in that 18700
relation or the chiropractor's advice to a patient, except as 18701

otherwise provided in this division. The testimonial privilege 18702
established under this division does not apply, and a chiropractor 18703
may testify or may be compelled to testify, in any civil action, 18704
in accordance with the discovery provisions of the Rules of Civil 18705
Procedure in connection with a civil action, or in connection with 18706
a claim under Chapter 4123. of the Revised Code, under any of the 18707
following circumstances: 18708

(a) If the patient or the guardian or other legal 18709
representative of the patient gives express consent. 18710

(b) If the patient is deceased, the spouse of the patient or 18711
the executor or administrator of the patient's estate gives 18712
express consent. 18713

(c) If a medical claim, dental claim, chiropractic claim, or 18714
optometric claim, as defined in section 2305.113 of the Revised 18715
Code, an action for wrongful death, any other type of civil 18716
action, or a claim under Chapter 4123. of the Revised Code is 18717
filed by the patient, the personal representative of the estate of 18718
the patient if deceased, or the patient's guardian or other legal 18719
representative. 18720

(2) If the testimonial privilege described in division (J)(1) 18721
of this section does not apply as provided in division (J)(1)(c) 18722
of this section, a chiropractor may be compelled to testify or to 18723
submit to discovery under the Rules of Civil Procedure only as to 18724
a communication made to the chiropractor by the patient in 18725
question in that relation, or the chiropractor's advice to the 18726
patient in question, that related causally or historically to 18727
physical or mental injuries that are relevant to issues in the 18728
medical claim, dental claim, chiropractic claim, or optometric 18729
claim, action for wrongful death, other civil action, or claim 18730
under Chapter 4123. of the Revised Code. 18731

(3) The testimonial privilege established under this division 18732

does not apply, and a chiropractor may testify or be compelled to 18733
testify, in any criminal action or administrative proceeding. 18734

(4) As used in this division, "communication" means 18735
acquiring, recording, or transmitting any information, in any 18736
manner, concerning any facts, opinions, or statements necessary to 18737
enable a chiropractor to diagnose, treat, or act for a patient. A 18738
communication may include, but is not limited to, any 18739
chiropractic, office, or hospital communication such as a record, 18740
chart, letter, memorandum, laboratory test and results, x-ray, 18741
photograph, financial statement, diagnosis, or prognosis. 18742

(K)(1) Except as provided under division (K)(2) of this 18743
section, a critical incident stress management team member 18744
concerning a communication received from an individual who 18745
receives crisis response services from the team member, or the 18746
team member's advice to the individual, during a debriefing 18747
session. 18748

(2) The testimonial privilege established under division 18749
(K)(1) of this section does not apply if any of the following are 18750
true: 18751

(a) The communication or advice indicates clear and present 18752
danger to the individual who receives crisis response services or 18753
to other persons. For purposes of this division, cases in which 18754
there are indications of present or past child abuse or neglect of 18755
the individual constitute a clear and present danger. 18756

(b) The individual who received crisis response services 18757
gives express consent to the testimony. 18758

(c) If the individual who received crisis response services 18759
is deceased, the surviving spouse or the executor or administrator 18760
of the estate of the deceased individual gives express consent. 18761

(d) The individual who received crisis response services 18762
voluntarily testifies, in which case the team member may be 18763

compelled to testify on the same subject. 18764

(e) The court in camera determines that the information 18765
communicated by the individual who received crisis response 18766
services is not germane to the relationship between the individual 18767
and the team member. 18768

(f) The communication or advice pertains or is related to any 18769
criminal act. 18770

(3) As used in division (K) of this section: 18771

(a) "Crisis response services" means consultation, risk 18772
assessment, referral, and on-site crisis intervention services 18773
provided by a critical incident stress management team to 18774
individuals affected by crisis or disaster. 18775

(b) "Critical incident stress management team member" or 18776
"team member" means an individual specially trained to provide 18777
crisis response services as a member of an organized community or 18778
local crisis response team that holds membership in the Ohio 18779
critical incident stress management network. 18780

(c) "Debriefing session" means a session at which crisis 18781
response services are rendered by a critical incident stress 18782
management team member during or after a crisis or disaster. 18783

(L)(1) Subject to division (L)(2) of this section and except 18784
as provided in division (L)(3) of this section, an employee 18785
assistance professional, concerning a communication made to the 18786
employee assistance professional by a client in the employee 18787
assistance professional's official capacity as an employee 18788
assistance professional. 18789

(2) Division (L)(1) of this section applies to an employee 18790
assistance professional who meets either or both of the following 18791
requirements: 18792

(a) Is certified by the employee assistance certification 18793

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| commission to engage in the employee assistance profession; | 18794 |
| (b) Has education, training, and experience in all of the following: | 18795 |
| (i) Providing workplace-based services designed to address employer and employee productivity issues; | 18796 |
| (ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance; | 18797 |
| (iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues; | 18798 |
| (iv) Selecting and evaluating available community resources; | 18799 |
| (v) Making appropriate referrals; | 18800 |
| (vi) Local and national employee assistance agreements; | 18801 |
| (vii) Client confidentiality. | 18802 |
| (3) Division (L)(1) of this section does not apply to any of the following: | 18803 |
| (a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense; | 18804 |
| (b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act; | 18805 |
| (c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse; | 18806 |
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(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;

(e) A civil or criminal malpractice action brought against the employee assistance professional;

(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;

(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 2317.41 of the Revised Code but subject to division (B) of this section, the records, or copies or photographs of the records, of a hospital, homes required to be licensed pursuant to section 3721.01 of the Revised Code, and ~~adult care residential facilities required to be licensed pursuant to Chapter 5119.~~ section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, in lieu of the testimony in open court of their custodian, person who made them, or person under whose supervision they were made, may be qualified as authentic evidence if any such person endorses thereon the person's verified certification identifying such records, giving the mode and time of their preparation, and stating that they were prepared in the usual course of the business of the institution. Such records, copies, or photographs may not be qualified by certification as provided in this section unless the party intending to offer them delivers a copy of them, or of their relevant portions, to the attorney of record for each adverse party not less than five days before trial. Nothing in this section shall be construed to limit the right of any party to call the custodian, person who made such records, or person under

whose supervision they were made, as a witness. 18854

(B) Division (A) of this section does not apply to any 18855
certified copy of the results of any test given to determine the 18856
presence or concentration of alcohol, a drug of abuse, a 18857
combination of them, a controlled substance, or a metabolite of a 18858
controlled substance in a patient's whole blood, blood serum or 18859
plasma, breath, or urine at any time relevant to a criminal 18860
offense that is submitted in a criminal action or proceeding in 18861
accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 18862
of the Revised Code. 18863

Sec. 2317.56. (A) As used in this section: 18864

(1) "Medical emergency" means a condition of a pregnant woman 18865
that, in the reasonable judgment of the physician who is attending 18866
the woman, creates an immediate threat of serious risk to the life 18867
or physical health of the woman from the continuation of the 18868
pregnancy necessitating the immediate performance or inducement of 18869
an abortion. 18870

(2) "Medical necessity" means a medical condition of a 18871
pregnant woman that, in the reasonable judgment of the physician 18872
who is attending the woman, so complicates the pregnancy that it 18873
necessitates the immediate performance or inducement of an 18874
abortion. 18875

(3) "Probable gestational age of the embryo or fetus" means 18876
the gestational age that, in the judgment of a physician, is, with 18877
reasonable probability, the gestational age of the embryo or fetus 18878
at the time that the physician informs a pregnant woman pursuant 18879
to division (B)(1)(b) of this section. 18880

(B) Except when there is a medical emergency or medical 18881
necessity, an abortion shall be performed or induced only if all 18882
of the following conditions are satisfied: 18883

(1) At least twenty-four hours prior to the performance or 18884
inducement of the abortion, a physician meets with the pregnant 18885
woman in person in an individual, private setting and gives her an 18886
adequate opportunity to ask questions about the abortion that will 18887
be performed or induced. At this meeting, the physician shall 18888
inform the pregnant woman, verbally or, if she is hearing 18889
impaired, by other means of communication, of all of the 18890
following: 18891

(a) The nature and purpose of the particular abortion 18892
procedure to be used and the medical risks associated with that 18893
procedure; 18894

(b) The probable gestational age of the embryo or fetus; 18895

(c) The medical risks associated with the pregnant woman 18896
carrying the pregnancy to term. 18897

The meeting need not occur at the facility where the abortion 18898
is to be performed or induced, and the physician involved in the 18899
meeting need not be affiliated with that facility or with the 18900
physician who is scheduled to perform or induce the abortion. 18901

(2) At least twenty-four hours prior to the performance or 18902
inducement of the abortion, one or more physicians or one or more 18903
agents of one or more physicians do each of the following in 18904
person, by telephone, by certified mail, return receipt requested, 18905
or by regular mail evidenced by a certificate of mailing: 18906

(a) Inform the pregnant woman of the name of the physician 18907
who is scheduled to perform or induce the abortion; 18908

(b) Give the pregnant woman copies of the published materials 18909
described in division (C) of this section; 18910

(c) Inform the pregnant woman that the materials given 18911
pursuant to division (B)(2)(b) of this section are ~~provided~~ 18912
published by the state and that they describe the embryo or fetus 18913

and list agencies that offer alternatives to abortion. The 18914
pregnant woman may choose to examine or not to examine the 18915
materials. A physician or an agent of a physician may choose to be 18916
disassociated from the materials and may choose to comment or not 18917
comment on the materials. 18918

(3) Prior to the performance or inducement of the abortion, 18919
the pregnant woman signs a form consenting to the abortion and 18920
certifies both of the following on that form: 18921

(a) She has received the information and materials described 18922
in divisions (B)(1) and (2) of this section, and her questions 18923
about the abortion that will be performed or induced have been 18924
answered in a satisfactory manner. 18925

(b) She consents to the particular abortion voluntarily, 18926
knowingly, intelligently, and without coercion by any person, and 18927
she is not under the influence of any drug of abuse or alcohol. 18928

(4) Prior to the performance or inducement of the abortion, 18929
the physician who is scheduled to perform or induce the abortion 18930
or the physician's agent receives a copy of the pregnant woman's 18931
signed form on which she consents to the abortion and that 18932
includes the certification required by division (B)(3) of this 18933
section. 18934

(C) The department of health shall ~~cause to be published~~ 18935
publish in English and in Spanish, in a typeface large enough to 18936
be clearly legible, and in an easily comprehensible format, the 18937
following materials on the department's web site: 18938

(1) Materials that inform the pregnant woman about family 18939
planning information, of publicly funded agencies that are 18940
available to assist in family planning, and of public and private 18941
agencies and services that are available to assist her through the 18942
pregnancy, upon childbirth, and while the child is dependent, 18943
including, but not limited to, adoption agencies. The materials 18944

shall be geographically indexed; include a comprehensive list of 18945
the available agencies, a description of the services offered by 18946
the agencies, and the telephone numbers and addresses of the 18947
agencies; and inform the pregnant woman about available medical 18948
assistance benefits for prenatal care, childbirth, and neonatal 18949
care and about the support obligations of the father of a child 18950
who is born alive. The department shall ensure that the materials 18951
described in division (C)(1) of this section are comprehensive and 18952
do not directly or indirectly promote, exclude, or discourage the 18953
use of any agency or service described in this division. 18954

(2) Materials that inform the pregnant woman of the probable 18955
anatomical and physiological characteristics of the zygote, 18956
blastocyte, embryo, or fetus at two-week gestational increments 18957
for the first sixteen weeks of pregnancy and at four-week 18958
gestational increments from the seventeenth week of pregnancy to 18959
full term, including any relevant information regarding the time 18960
at which the fetus possibly would be viable. The department shall 18961
cause these materials to be published only after it consults with 18962
the Ohio state medical association and the Ohio section of the 18963
American college of obstetricians and gynecologists relative to 18964
the probable anatomical and physiological characteristics of a 18965
zygote, blastocyte, embryo, or fetus at the various gestational 18966
increments. The materials shall use language that is 18967
understandable by the average person who is not medically trained, 18968
shall be objective and nonjudgmental, and shall include only 18969
accurate scientific information about the zygote, blastocyte, 18970
embryo, or fetus at the various gestational increments. If the 18971
materials use a pictorial, photographic, or other depiction to 18972
provide information regarding the zygote, blastocyte, embryo, or 18973
fetus, the materials shall include, in a conspicuous manner, a 18974
scale or other explanation that is understandable by the average 18975
person and that can be used to determine the actual size of the 18976
zygote, blastocyte, embryo, or fetus at a particular gestational 18977

increment as contrasted with the depicted size of the zygote, 18978
blastocyte, embryo, or fetus at that gestational increment. 18979

(D) Upon the submission of a request to the department of 18980
health by any person, hospital, physician, or medical facility for 18981
one ~~or more copies~~ copy of the materials published in accordance 18982
with division (C) of this section, the department shall make the 18983
requested ~~number of copies~~ copy of the materials available to the 18984
person, hospital, physician, or medical facility that requested 18985
the ~~copies~~ copy. 18986

(E) If a medical emergency or medical necessity compels the 18987
performance or inducement of an abortion, the physician who will 18988
perform or induce the abortion, prior to its performance or 18989
inducement if possible, shall inform the pregnant woman of the 18990
medical indications supporting the physician's judgment that an 18991
immediate abortion is necessary. Any physician who performs or 18992
induces an abortion without the prior satisfaction of the 18993
conditions specified in division (B) of this section because of a 18994
medical emergency or medical necessity shall enter the reasons for 18995
the conclusion that a medical emergency or medical necessity 18996
exists in the medical record of the pregnant woman. 18997

(F) If the conditions specified in division (B) of this 18998
section are satisfied, consent to an abortion shall be presumed to 18999
be valid and effective. 19000

(G) The performance or inducement of an abortion without the 19001
prior satisfaction of the conditions specified in division (B) of 19002
this section does not constitute, and shall not be construed as 19003
constituting, a violation of division (A) of section 2919.12 of 19004
the Revised Code. The failure of a physician to satisfy the 19005
conditions of division (B) of this section prior to performing or 19006
inducing an abortion upon a pregnant woman may be the basis of 19007
both of the following: 19008

(1) A civil action for compensatory and exemplary damages as described in division (H) of this section; 19009
19010

(2) Disciplinary action under section 4731.22 of the Revised Code. 19011
19012

(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 person, or the representative of the estate of any person, who sustains injury, death, or loss to person or property as a result of the failure to satisfy those conditions. In the civil action, the court additionally may enter any injunctive or other equitable relief that it considers appropriate. 19013
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(2) The following shall be affirmative defenses in a civil action authorized by division (H)(1) of this section: 19024
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(a) The physician performed or induced the abortion under the circumstances described in division (E) of this section. 19026
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(b) The physician made a good faith effort to satisfy the conditions specified in division (B) of this section. 19028
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~~(c) The physician or an agent of the physician requested copies of the materials published in accordance with division (C) of this section from the department of health, but the physician was not able to give a pregnant woman copies of the materials pursuant to division (B)(2) of this section and to obtain a certification as described in divisions (B)(3) and (4) of this section because the department failed to make the requested number of copies available to the physician or agent in accordance with division (D) of this section.~~ 19030
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(3) An employer or other principal is not liable in damages 19039

in a civil action authorized by division (H)(1) of this section on 19040
the basis of the doctrine of respondeat superior unless either of 19041
the following applies: 19042

(a) The employer or other principal had actual knowledge or, 19043
by the exercise of reasonable diligence, should have known that an 19044
employee or agent performed or induced an abortion with actual 19045
knowledge that the conditions specified in division (B) of this 19046
section had not been satisfied or with a heedless indifference as 19047
to whether those conditions had been satisfied. 19048

(b) The employer or other principal negligently failed to 19049
secure the compliance of an employee or agent with division (B) of 19050
this section. 19051

(4) Notwithstanding division (E) of section 2919.12 of the 19052
Revised Code, the civil action authorized by division (H)(1) of 19053
this section shall be the exclusive civil remedy for persons, or 19054
the representatives of estates of persons, who allegedly sustain 19055
injury, death, or loss to person or property as a result of a 19056
failure to satisfy the conditions specified in division (B) of 19057
this section. 19058

(I) The department of job and family services shall prepare 19059
and conduct a public information program to inform women of all 19060
available governmental programs and agencies that provide services 19061
or assistance for family planning, prenatal care, child care, or 19062
alternatives to abortion. 19063

Sec. 2319.27. Except as section 147.08 of the Revised Code 19064
governs the fees chargeable by a notary public for services 19065
rendered in connection with depositions, the fees and expenses 19066
chargeable for the taking and certifying of a deposition by a 19067
person who is authorized to do so in this state, including, but 19068
not limited to, a ~~shorthand~~ reporter, stenographer, or person 19069
described in Civil Rule 28, may be established by that person 19070

subject to the qualification specified in this section, and may be 19071
different than the fees and expenses charged for the taking and 19072
certifying of depositions by similar persons in other areas of 19073
this state. Unless, prior to the taking and certifying of a 19074
deposition, the parties who request it agree that the fees or 19075
expenses to be charged may exceed the usual and customary fees or 19076
expenses charged in the particular community for similar services, 19077
such a person shall not charge fees or expenses in connection with 19078
the taking and certifying of the deposition that exceed those 19079
usual and customary fees and expenses. 19080

The person taking and certifying a deposition may retain the 19081
deposition until the fees and expenses that ~~he~~ the person charged 19082
are paid. ~~He~~ The person also shall tax the costs, if any, of a 19083
sheriff or other officer who serves any process in connection with 19084
the taking of a deposition and the fees of the witnesses, and, if 19085
directed by a person entitled to those costs or fees, may retain 19086
the deposition until those costs or fees are paid. 19087

Sec. 2501.02. Each judge of a court of appeals shall have 19088
been admitted to practice as an attorney at law in this state and 19089
have, for a total of six years preceding the judge's appointment 19090
or commencement of the judge's term, engaged in the practice of 19091
law or served as a judge of a court of record in any jurisdiction 19092
in the United States, or both. At least two of the years of 19093
practice or service that qualify a judge shall have been in this 19094
state. One judge shall be chosen in each court of appeals district 19095
every two years, and shall hold office for six years, beginning on 19096
the ninth day of February next after the judge's election. 19097

In addition to the original jurisdiction conferred by Section 19098
3 of Article IV, Ohio Constitution, the court shall have 19099
jurisdiction upon an appeal upon questions of law to review, 19100
affirm, modify, set aside, or reverse judgments or final orders of 19101

courts of record inferior to the court of appeals within the 19102
district, including the finding, order, or judgment of a juvenile 19103
court that a child is delinquent, neglected, abused, or dependent, 19104
and upon any appeal brought by any party, including a public 19105
children services agency, in relation to a ruling on a motion to 19106
modify a prior dispositional order, for prejudicial error 19107
committed by such lower court. 19108

The court, on good cause shown, may issue writs of 19109
supersedeas in any case, and all other writs, not specially 19110
provided for or prohibited by statute, necessary to enforce the 19111
administration of justice. 19112

Sec. 2501.16. (A) Each court of appeals may appoint one or 19113
more official ~~shorthand~~ reporters, law clerks, secretaries, and 19114
any other employees that the court considers necessary for its 19115
efficient operation. 19116

The clerk of the court of common pleas, acting as the clerk 19117
of the court of appeals for the county, shall perform the duties 19118
otherwise performed and collect the fees otherwise collected by 19119
the clerk of the court of common pleas, as set forth in section 19120
2303.03 of the Revised Code, and shall maintain the files and 19121
records of the court. The clerk of the court of common pleas, 19122
acting as the clerk of the court of appeals for the county, may 19123
refuse to accept for filing any pleading or paper submitted for 19124
filing by a person who has been found to be a vexatious litigator 19125
under section 2323.52 of the Revised Code and who has failed to 19126
obtain leave from the court of appeals to proceed under that 19127
section. The overhead expenses pertaining to the office of the 19128
clerk of the court of common pleas that result from the clerk's 19129
acting as clerk of the court of appeals for the county, other than 19130
wages and salaries, shall be paid from the funds provided under 19131
sections 2501.18 and 2501.181 of the Revised Code. 19132

Each officer and employee appointed pursuant to this section 19133
shall take an oath of office, serve at the pleasure of the court, 19134
and perform any duties that the court directs. Each ~~shorthand~~ 19135
reporter shall have the powers that are vested in official 19136
~~shorthand~~ reporters of the court of common pleas under sections 19137
2301.18 to 2301.26 of the Revised Code. Whenever an opinion, per 19138
curiam, or report of a case has been prepared in accordance with 19139
section 2503.20 of the Revised Code, the official ~~shorthand~~ 19140
reporter immediately shall forward one copy of the opinion, per 19141
curiam, or report to the reporter of the supreme court, without 19142
expense to the reporter. 19143

(B) The court of appeals may determine that, for the 19144
efficient operation of the court, additional funds are necessary 19145
to acquire and pay for special projects of the court, including, 19146
but not limited to, the acquisition of additional facilities or 19147
the rehabilitation of existing facilities, the acquisition of 19148
equipment, the hiring and training of staff, the employment of 19149
magistrates, the training and education of judges, acting judges, 19150
and magistrates, community service programs, and other related 19151
services. Upon that determination, the court by rule may charge a 19152
fee, in addition to all other court costs, on the filing of each 19153
case or cause over which the court has jurisdiction. 19154

If the court of appeals offers a special program or service 19155
in cases of a specific type, the court by rule may assess an 19156
additional charge in a case of that type, over and above court 19157
costs, to cover the special program or service. The court shall 19158
adjust the special assessment periodically, but not retroactively, 19159
so that the amount assessed in those cases does not exceed the 19160
actual cost of providing the service or program. 19161

All moneys collected under division (B) of this section shall 19162
be paid to the county treasurer of the county selected as the 19163
principal seat of that court of appeals for deposit into either a 19164

general special projects fund or a fund established for a specific 19165
special project. Moneys from a fund of that nature shall be 19166
disbursed upon an order of the court in an amount no greater than 19167
the actual cost to the court of a project. If a specific fund is 19168
terminated because of the discontinuance of a program or service 19169
established under division (B) of this section, the court may 19170
order that moneys remaining in the fund be transferred to an 19171
account established under this division for a similar purpose. 19172

Sec. 2501.17. Each officer and employee of a court of appeals 19173
appointed under section 2501.16 of the Revised Code shall receive 19174
the compensation that is fixed by the court of appeals and payable 19175
from the state treasury upon the certificate of the presiding or 19176
administrative judge of the district in which the officer or 19177
employee serves. The additional amount of compensation that the 19178
clerk of the court of common pleas receives for acting as the 19179
clerk of the court of appeals in ~~his~~ the clerk's county and 19180
assuming the duties of that office and that is equal to one-eighth 19181
of the annual compensation that ~~he~~ the clerk receives pursuant to 19182
sections 325.08 and 325.18 of the Revised Code for being the clerk 19183
of the court of common pleas is payable from the state treasury 19184
upon the certificate of the presiding or administrative judge of 19185
the district in which the clerk serves. 19186

~~Shorthand reporters~~ Reporters may receive additional 19187
compensation for transcripts of evidence, the fee for the 19188
transcripts to be fixed by the judges of the court of appeals and 19189
paid and collected in the same manner as the fees for transcripts 19190
furnished by official ~~shorthand~~ reporters of the court of common 19191
pleas under section 2301.24 of the Revised Code. ~~Shorthand~~ 19192
~~reporters~~ Reporters appointed for a term of less than one year 19193
shall receive a per diem compensation of not less than thirty 19194
dollars per day. All ~~shorthand~~ reporters shall receive their 19195
actual expenses for traveling when attending court in any county 19196

other than that in which they reside, to be paid as provided by 19197
section ~~2301.24~~ 2301.22 of the Revised Code. 19198

Sec. 2743.02. (A)(1) The state hereby waives its immunity 19199
from liability, except as provided for the office of the state 19200
fire marshal in division (G)(1) of section 9.60 and division (B) 19201
of section 3737.221 of the Revised Code and subject to division 19202
(H) of this section, and consents to be sued, and have its 19203
liability determined, in the court of claims created in this 19204
chapter in accordance with the same rules of law applicable to 19205
suits between private parties, except that the determination of 19206
liability is subject to the limitations set forth in this chapter 19207
and, in the case of state universities or colleges, in section 19208
3345.40 of the Revised Code, and except as provided in division 19209
(A)(2) or (3) of this section. To the extent that the state has 19210
previously consented to be sued, this chapter has no 19211
applicability. 19212

Except in the case of a civil action filed by the state, 19213
filing a civil action in the court of claims results in a complete 19214
waiver of any cause of action, based on the same act or omission, 19215
~~which~~ that the filing party has against any officer or employee, 19216
as defined in section 109.36 of the Revised Code. The waiver shall 19217
be void if the court determines that the act or omission was 19218
manifestly outside the scope of the officer's or employee's office 19219
or employment or that the officer or employee acted with malicious 19220
purpose, in bad faith, or in a wanton or reckless manner. 19221

(2) If a claimant proves in the court of claims that an 19222
officer or employee, as defined in section 109.36 of the Revised 19223
Code, would have personal liability for the officer's or 19224
employee's acts or omissions but for the fact that the officer or 19225
employee has personal immunity under section 9.86 of the Revised 19226
Code, the state shall be held liable in the court of claims in any 19227

action that is timely filed pursuant to section 2743.16 of the Revised Code and that is based upon the acts or omissions.

(3)(a) Except as provided in division (A)(3)(b) of this section, the state is immune from liability in any civil action or proceeding involving the performance or nonperformance of a public duty, including the performance or nonperformance of a public duty that is owed by the state in relation to any action of an individual who is committed to the custody of the state.

(b) The state immunity provided in division (A)(3)(a) of this section does not apply to any action of the state under circumstances in which a special relationship can be established between the state and an injured party. A special relationship under this division is demonstrated if all of the following elements exist:

(i) An assumption by the state, by means of promises or actions, of an affirmative duty to act on behalf of the party who was allegedly injured;

(ii) Knowledge on the part of the state's agents that inaction of the state could lead to harm;

(iii) Some form of direct contact between the state's agents and the injured party;

(iv) The injured party's justifiable reliance on the state's affirmative undertaking.

(B) The state hereby waives the immunity from liability of all hospitals owned or operated by one or more political subdivisions and consents for them to be sued, and to have their liability determined, in the court of common pleas, in accordance with the same rules of law applicable to suits between private parties, subject to the limitations set forth in this chapter. This division is also applicable to hospitals owned or operated by political subdivisions ~~which~~ that have been determined by the

supreme court to be subject to suit prior to July 28, 1975. 19259

(C) Any hospital, as defined in section 2305.113 of the 19260
Revised Code, may purchase liability insurance covering its 19261
operations and activities and its agents, employees, nurses, 19262
interns, residents, staff, and members of the governing board and 19263
committees, and, whether or not such insurance is purchased, may, 19264
to ~~such the~~ extent ~~as that~~ its governing board considers 19265
appropriate, indemnify or agree to indemnify and hold harmless any 19266
such person against expense, including attorney's fees, damage, 19267
loss, or other liability arising out of, or claimed to have arisen 19268
out of, the death, disease, or injury of any person as a result of 19269
the negligence, malpractice, or other action or inaction of the 19270
indemnified person while acting within the scope of the 19271
indemnified person's duties or engaged in activities at the 19272
request or direction, or for the benefit, of the hospital. Any 19273
hospital electing to indemnify ~~such those~~ persons, or to agree to 19274
so indemnify, shall reserve ~~such any~~ funds ~~as that~~ are necessary, 19275
in the exercise of sound and prudent actuarial judgment, to cover 19276
the potential expense, fees, damage, loss, or other liability. The 19277
superintendent of insurance may recommend, or, if ~~such the~~ 19278
hospital requests the superintendent to do so, the superintendent 19279
shall recommend, a specific amount for any period that, in the 19280
superintendent's opinion, represents such a judgment. This 19281
authority is in addition to any authorization otherwise provided 19282
or permitted by law. 19283

(D) Recoveries against the state shall be reduced by the 19284
aggregate of insurance proceeds, disability award, or other 19285
collateral recovery received by the claimant. This division does 19286
not apply to civil actions in the court of claims against a state 19287
university or college under the circumstances described in section 19288
3345.40 of the Revised Code. The collateral benefits provisions of 19289
division (B)(2) of that section apply under those circumstances. 19290

(E) The only defendant in original actions in the court of claims is the state. The state may file a third-party complaint or counterclaim in any civil action, except a civil action for ~~two~~ ten thousand ~~five hundred~~ dollars or less, that is filed in the court of claims.

(F) A civil action against an officer or employee, as defined in section 109.36 of the Revised Code, that alleges that the officer's or employee's conduct was manifestly outside the scope of the officer's or employee's employment or official responsibilities, or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner shall first be filed against the state in the court of claims, ~~which~~ that has exclusive, original jurisdiction to determine, initially, whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code and whether the courts of common pleas have jurisdiction over the civil action. The officer or employee may participate in the immunity determination proceeding before the court of claims to determine whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code.

The filing of a claim against an officer or employee under this division tolls the running of the applicable statute of limitations until the court of claims determines whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code.

(G) ~~Whenever~~ If a claim lies against an officer or employee who is a member of the Ohio national guard, and the officer or employee was, at the time of the act or omission complained of, subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 2671, et seq., ~~then~~ the Federal Tort Claims Act is the exclusive remedy of the claimant and the state has no liability under this section.

(H) If an inmate of a state correctional institution has a claim against the state for the loss of or damage to property and the amount claimed does not exceed three hundred dollars, before commencing an action against the state in the court of claims, the inmate shall file a claim for the loss or damage under the rules adopted by the director of rehabilitation and correction pursuant to this division. The inmate shall file the claim within the time allowed for commencement of a civil action under section 2743.16 of the Revised Code. If the state admits or compromises the claim, the director shall make payment from a fund designated by the director for that purpose. If the state denies the claim or does not compromise the claim at least sixty days prior to expiration of the time allowed for commencement of a civil action based upon the loss or damage under section 2743.16 of the Revised Code, the inmate may commence an action in the court of claims under this chapter to recover damages for the loss or damage.

The director of rehabilitation and correction shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this division.

Sec. 2743.09. The clerk of the court of claims shall do all of the following:

(A) Administer oaths and take and certify affidavits, depositions, and acknowledgments of powers of attorney and other instruments in writing;

(B) Prepare the dockets, enter and record the orders, judgments, decisions, awards, and proceedings of the court of claims and the court of claims commissioners, and issue writs and process;

(C) Maintain an office in Franklin county in rooms provided by the supreme court for that purpose;

(D) Keep an appearance docket of civil actions, claims for an award of reparations, and appeals from decisions of the court of claims commissioners. The clerk may refuse to accept for filing any pleading or paper that relates to a civil action in the court of claims and that is submitted for filing 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.

Upon the commencement of an action or claim, the clerk shall assign it a number. This number shall be placed on the first page, and every continuation page, of the appearance docket that concerns the particular action or claim. In addition, this number and the names of the parties shall be placed on the case file, and every paper filed in the action or claim.

At the time the action is commenced the clerk shall enter in the appearance docket the names of the parties in full and the names of counsel and shall index the action alphabetically by the last name of each party. Thereafter, the clerk shall chronologically note in the appearance docket all process issued and returns, pleas, motions, papers filed in the action, orders, verdicts, and judgments. The notations shall be brief but shall show the date of filing, substance, and journal volume and page of each order, verdict, and judgment. An action is commenced for purposes of this division by the filing of a complaint, including a form complaint under section 2743.10 of the Revised Code or a petition for removal.

At the time an appeal for an award of reparations is commenced, the clerk shall enter the full names of the claimant, the victim, and the attorneys in the appearance docket and shall index the claim alphabetically by the last name of the claimant and the victim. Thereafter, the clerk shall chronologically note in the appearance docket all process issued and returns, motions,

papers filed in the claim, orders, decisions, and awards. The 19385
notations shall be brief but shall show the date of filing, 19386
substance, and journal volume and page of each order. 19387

(E) Keep all original papers filed in an action or claim in a 19388
separate file folder and a journal in which all orders, verdicts, 19389
and judgments of the court and commissioners shall be recorded; 19390

(F) Charge and collect fees pursuant to section 2303.20 of 19391
the Revised Code, keep a cashbook in which the clerk shall enter 19392
the amounts received, make a report to the clerk of the supreme 19393
court each quarter of the fees received during the preceding 19394
quarter, and pay them monthly into the state treasury; 19395

(G) Appoint ~~stenographers, shorthand~~ reporters, and other 19396
clerical personnel; 19397

(H) Under the direction of the chief justice, establish 19398
procedures for hearing and determining appeals for an award of 19399
reparations pursuant to sections 2743.51 to 2743.72 of the Revised 19400
Code. 19401

Sec. 2743.10. (A) Civil actions against the state for ~~two~~ ten 19402
thousand ~~five hundred~~ dollars or less shall be determined 19403
administratively by the clerk of the court of claims, except that 19404
the clerk is not required to administratively determine a civil 19405
action of that nature if the civil action was commenced by a 19406
person who has been found to be a vexatious litigator under 19407
section 2323.52 of the Revised Code and who has failed to obtain 19408
leave to proceed under that section and if the clerk refused 19409
pursuant to division (D) of section 2743.09 of the Revised Code to 19410
accept for filing any pleading or paper that relates to the civil 19411
action and that was submitted for filing by that person and except 19412
that all civil actions against the state that have been removed to 19413
the court of claims shall be heard and determined by a judge of 19414
the court of claims. 19415

(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 of the form complaint. The clerk shall forward a copy of the report to the claimant and give the claimant an opportunity to respond to the report either in writing or by appearing before the clerk.

(C) The clerk shall determine the civil action covered by division (A) of this section and make a report of the decision, together with findings of fact and conclusions of law, copies of which shall be mailed to the claimant and the state instrumentality. Except as otherwise provided in this division, the determination shall be based upon principles of law applicable in the court of claims, including, but not limited to, section 3345.40 of the Revised Code if a state university or college is a defendant in the court of claims.

Rules of evidence shall not be applicable in the determination. Procedures shall be governed by rules promulgated by the clerk, shall be informal, and shall be designed to accommodate persons who are not skilled in the law.

(D) Upon the motion of a party, the court of claims shall review the determination of the clerk upon the clerk's report and papers filed in the action and shall enter judgment consistent with its findings. The judgment shall not be the subject of further appeal. No civil action arising out of the same transaction or set of facts may be commenced by the claimant in

the court of claims. 19448

(E) The determination of the clerk pursuant to division (C) 19449
of this section shall be processed pursuant to section 2743.19 of 19450
the Revised Code as if it were a judgment. 19451

Sec. 2743.48. (A) As used in this section and section 2743.49 19452
of the Revised Code, a "wrongfully imprisoned individual" means an 19453
individual who ~~satisfies~~ proves each of the following by clear and 19454
convincing evidence: 19455

(1) The individual was charged with a violation of a section 19456
of the Revised Code by an indictment or information ~~prior to, or~~ 19457
~~on or after, September 24, 1986,~~ and the violation charged was an 19458
aggravated felony or felony. 19459

(2) The individual was found guilty of, ~~but did not plead~~ 19460
~~guilty to,~~ the particular charge or a lesser-included offense by 19461
the court or jury involved, the offender did not plead guilty or 19462
no contest to the particular charge or a lesser-included offense, 19463
whether or not the guilty or no-contest plea was accepted and 19464
whether or not the guilty or no-contest plea was later withdrawn, 19465
vacated, voided by operation of law, overturned, set aside, or 19466
otherwise invalidated by any court, by executive pardon, or by 19467
post-conviction proceeding, and the offense of which the 19468
individual was found guilty was an aggravated felony or felony. 19469

(3) The individual was sentenced to an indefinite or definite 19470
term of imprisonment in a state correctional institution for the 19471
offense of which the individual was found guilty. 19472

(4) The individual's conviction was vacated ~~or was,~~ 19473
dismissed, or reversed on appeal, the prosecuting attorney in the 19474
case cannot or will not seek any further appeal of right or upon 19475
leave of court, and no criminal proceeding is pending, can be 19476
brought, or will be brought by any prosecuting attorney, city 19477

director of law, village solicitor, or other chief legal officer 19478
of a municipal corporation against the individual for any act 19479
associated with that conviction. 19480

(5) Subsequent to sentencing and during or subsequent to 19481
imprisonment, ~~an error in procedure resulted in the individual's~~ 19482
~~release, or~~ it was determined by a the court of common pleas in 19483
the county where the underlying criminal action was initiated that 19484
the charged offense ~~of which the individual was found guilty,~~ 19485
including all lesser-included offenses, either was not committed 19486
by the individual or was not committed by any person. 19487

(6) At the time of the offense that individual was not 19488
engaging in any other criminal conduct arising out of the incident 19489
for which the individual was initially charged. 19490

(B)(1) ~~When a~~ A person may file a civil action to be declared 19491
a wrongfully imprisoned individual in the court of common pleas in 19492
the county where the underlying criminal action was initiated. 19493
That civil action shall be separate from the underlying finding of 19494
guilt by the court of common pleas. There is no right to a jury 19495
trial in that action. The prosecuting attorney of that county 19496
shall be served with a copy of the complaint and shall defend all 19497
civil actions to determine a person to be a wrongfully imprisoned 19498
individual under this section. Upon the filing of a civil action 19499
to be determined a wrongfully imprisoned individual, the attorney 19500
general shall also be served with a copy of the complaint and 19501
shall be heard. 19502

(2) When the court of common pleas in the county where the 19503
underlying criminal action was initiated determines, ~~on or after~~ 19504
~~September 24, 1986,~~ in a separate civil action that a person is a 19505
wrongfully imprisoned individual, the court shall provide the 19506
person with a copy of this section and orally inform the person 19507
and the person's attorney of the person's rights under this 19508
section to commence a civil action against the state in the court 19509

of claims because of the person's wrongful imprisonment ~~and to be~~ 19510
~~represented in that civil action by counsel of the person's own~~ 19511
~~choice.~~ 19512

~~(2)~~(3) The court described in division (B)(1) of this section 19513
shall notify the clerk of the court of claims, in writing and 19514
within seven days after the date of the entry of its determination 19515
that the person is a wrongfully imprisoned individual, of the name 19516
and proposed mailing address of the person and of the fact that 19517
the person has the rights to commence a civil action and to have 19518
legal representation as provided in this section. The clerk of the 19519
court of claims shall maintain in the clerk's office a list of 19520
wrongfully imprisoned individuals for whom notices are received 19521
under this section and shall create files in the clerk's office 19522
for each such individual. 19523

~~(3)~~(4) Within sixty days after the date of the ~~entry of a~~ 19524
~~court of common plea's determination that a person is a wrongfully~~ 19525
~~imprisoned individual~~ filing of the complaint for damages in the 19526
court of claims and the finding by the court of claims of the 19527
number of days of wrongful imprisonment in a state correctional 19528
institution, the clerk of the court of claims shall forward a 19529
preliminary judgment to the president of the controlling board 19530
requesting the payment of fifty per cent of the amount described 19531
in division (E)(2)(b) of this section to the wrongfully imprisoned 19532
individual. The board shall take all actions necessary to cause 19533
the payment of that amount out of the emergency purposes special 19534
purpose account of the board. 19535

(5) If an individual was serving at the time of the wrongful 19536
imprisonment concurrent sentences on other convictions that were 19537
not vacated, dismissed, or reversed on appeal, the individual is 19538
not eligible for compensation as described in this section for any 19539
portion of that wrongful imprisonment that occurred during a 19540
concurrent sentence of that nature. 19541

~~(C)(1) In a civil action under this section, a wrongfully imprisoned individual has the right to have counsel of the individual's own choice.~~

~~(2)~~ If a wrongfully imprisoned individual who is the subject of a court determination as described in division (B)~~(1)~~(2) of this section does not commence a civil action under this section within six months after the entry of that determination, the clerk of the court of claims shall send a letter to the wrongfully imprisoned individual, at the address set forth in the notice received from the court of common pleas pursuant to division (B)~~(2)~~(3) of this section or to any later address provided by the wrongfully imprisoned individual, that reminds the wrongfully imprisoned individual of the wrongfully imprisoned individual's rights under this section. Until the statute of limitations provided in division (H) of this section expires and unless the wrongfully imprisoned individual commences a civil action under this section, the clerk of the court of claims shall send a similar letter in a similar manner to the wrongfully imprisoned individual at least once each three months after the sending of the first reminder.

(D) Notwithstanding any provisions of this chapter to the contrary, a wrongfully imprisoned individual has and may file a civil action against the state, in the court of claims, to recover a sum of money as described in this section, because of the individual's wrongful imprisonment. The court of claims shall have exclusive, original jurisdiction over such a civil action. The civil action shall proceed, be heard, and be determined as provided in sections 2743.01 to 2743.20 of the Revised Code, except that if a provision of this section conflicts with a provision in any of those sections, the provision in this section controls.

(E)(1) In a civil action as described in division (D) of this

section, the complainant may establish that the claimant is a 19574
wrongfully imprisoned individual by submitting to the court of 19575
claims a certified copy of the judgment entry of the court of 19576
common pleas associated with the claimant's conviction and 19577
sentencing, and a certified copy of the entry of the determination 19578
of a the court of common pleas that the claimant is a wrongfully 19579
imprisoned individual under division (B)(2) of this section. No 19580
other evidence shall be required of the complainant to establish 19581
that the claimant is a wrongfully imprisoned individual, and the 19582
claimant shall be ~~irrebuttably~~ rebuttably presumed to be a 19583
wrongfully imprisoned individual absent a violation of any 19584
provision of this section or of section 2305.02 of the Revised 19585
Code. 19586

(2) In a civil action as described in division (D) of this 19587
section, upon presentation of requisite proof to the court of 19588
claims, a wrongfully imprisoned individual is entitled to receive 19589
a sum of money that equals the total of each of the following 19590
amounts: 19591

(a) The amount of any fine or court costs imposed and paid, 19592
and the reasonable attorney's fees and other expenses incurred by 19593
the wrongfully imprisoned individual in connection with all 19594
associated criminal proceedings and appeals, and, if applicable, 19595
in connection with obtaining the wrongfully imprisoned 19596
individual's discharge from confinement in the state correctional 19597
institution; 19598

(b) For each full year of imprisonment in the state 19599
correctional institution for the offense of which the wrongfully 19600
imprisoned individual was found guilty, forty thousand three 19601
hundred thirty dollars or the adjusted amount determined by the 19602
auditor of state pursuant to section 2743.49 of the Revised Code, 19603
and for each part of a year of being so imprisoned, a pro-rated 19604
share of forty thousand three hundred thirty dollars or the 19605

adjusted amount determined by the auditor of state pursuant to 19606
section 2743.49 of the Revised Code; 19607

(c) Any loss of wages, salary, or other earned income that 19608
directly resulted from the wrongfully imprisoned individual's 19609
arrest, prosecution, conviction, and wrongful imprisonment; 19610

(d) The amount of the following cost debts the department of 19611
rehabilitation and correction recovered from the wrongfully 19612
imprisoned individual who was in custody of the department or 19613
under the department's supervision: 19614

(i) Any user fee or copayment for services at a detention 19615
facility, including, but not limited to, a fee or copayment for 19616
sick call visits; 19617

(ii) The cost of housing and feeding the wrongfully 19618
imprisoned individual in a detention facility; 19619

(iii) The cost of supervision of the wrongfully imprisoned 19620
individual; 19621

(iv) The cost of any ancillary services provided to the 19622
wrongfully imprisoned individual. 19623

(3) The court of claims shall deduct any known debts owed by 19624
the wrongfully imprisoned individual to the state as described in 19625
division (A) of section 2743.01 of the Revised Code or a political 19626
subdivision under division (B) of section 2743.01 of the Revised 19627
Code from the sum of money described in division (E)(2) of this 19628
section, and those deducted amounts shall be paid to the state or 19629
political subdivision, whichever is applicable. 19630

(F)(1) If the court of claims determines in a civil action as 19631
described in division (D) of this section that the complainant is 19632
a wrongfully imprisoned individual, it shall enter judgment for 19633
the wrongfully imprisoned individual in the amount of the sum of 19634
money to which the wrongfully imprisoned individual is entitled 19635

under division (E)(2) of this section. In determining that sum, 19636
the court of claims shall not take into consideration any expenses 19637
incurred by the state or any of its political subdivisions in 19638
connection with the arrest, prosecution, and imprisonment of the 19639
wrongfully imprisoned individual, including, but not limited to, 19640
expenses for food, clothing, shelter, and medical services. The 19641
court shall reduce that sum by the amount of the payment to the 19642
wrongfully imprisoned individual described in ~~division~~ divisions 19643
(B)~~(3)~~(4) and (E)(3) of this section. 19644

(2) ~~If the wrongfully imprisoned individual was represented~~ 19645
~~in the civil action under this section by counsel of the~~ 19646
~~wrongfully imprisoned individual's own choice, the~~ The clerk of 19647
the court of claims shall include in the judgment entry referred 19648
to in division (F)(1) of this section an award for the payment of 19649
the court costs, transcripts, expert witness fees, and other 19650
reasonable ~~attorney's fees of that counsel~~ out-of-pocket 19651
litigation expenses related to the civil action described in 19652
division (D) of this section. These fees shall be paid as provided 19653
in division (G) of this section. 19654

(3) The state consents to be sued by a wrongfully imprisoned 19655
individual because the imprisonment was wrongful, and to liability 19656
on its part because of that fact, only as provided in this 19657
section. However, this section does not affect any liability of 19658
the state or of its employees to a wrongfully imprisoned 19659
individual on a claim for relief that is not based on the fact of 19660
the wrongful imprisonment, including, but not limited to, a claim 19661
for relief that arises out of circumstances occurring during the 19662
wrongfully imprisoned individual's confinement in the state 19663
correctional institution. 19664

(G) The clerk of the court of claims shall forward a 19665
certified copy of a judgment under division (F) of this section to 19666
the president of the controlling board. The board shall take all 19667

actions necessary to cause the payment of the judgment out of the 19668
emergency purposes special purpose account of the board. 19669

(H) To be eligible to recover a sum of money as described in 19670
this section because of wrongful imprisonment, ~~a~~ both of the 19671
following shall apply to a wrongfully imprisoned individual: 19672

(1) The wrongfully imprisoned individual shall not have been, 19673
prior to September 24, 1986, the subject of an act of the general 19674
assembly that authorized an award of compensation for the wrongful 19675
imprisonment or have been the subject of an action before the 19676
former sundry claims board that resulted in an award of 19677
compensation for the wrongful imprisonment. ~~Additionally, to be~~ 19678
~~eligible to so recover, the~~ 19679

(2) The wrongfully imprisoned individual shall commence a 19680
civil action under this section in the court of claims no later 19681
than two years after the date of the entry of the determination of 19682
~~a~~ the court of common pleas that the individual is a wrongfully 19683
imprisoned individual under division (B)(2) of this section. 19684

Sec. 2746.01. A court of record of this state shall tax as 19685
costs or otherwise require the payment of fees for the following 19686
services rendered or as compensation for the following persons or 19687
any other of the following fees that are applicable in a 19688
particular case: 19689

(A) Appraisers, commissioners, or arbitrators appointed to 19690
make or procure an appraisal or valuation of any property, as 19691
provided in section 2335.02 of the Revised Code; 19692

(B) Auctioneers appointed to conduct any public auction of 19693
goods, chattels, or lands required to be sold by an officer of the 19694
court, as provided in section 2335.021 of the Revised Code; 19695

(C) Commissioners appointed to make partition of lands or to 19696
assign dower and appraisers of real or personal property on 19697

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| execution, replevin, or attachment or to fix the value of exempt property, as provided in section 2335.01 of the Revised Code; | 19698 19699 |
| (D) Deposit of rent with the clerk of court by a resident of a manufactured home park, as provided in section 3733.121 <u>4781.42</u> of the Revised Code, or by a tenant of residential premises, as provided in section 5321.08 of the Revised Code; | 19700 19701 19702 19703 |
| (E) Interpreters, as provided in section 2335.09 of the Revised Code; | 19704 19705 |
| (F) Fees in a civil action or appeal commenced by an inmate against a government entity or employee, as provided in section 2969.22 of the Revised Code; | 19706 19707 19708 |
| (G) Procurement of a transcript of a judgment or proceeding or exemplification of a record in an appeal or other civil action, as provided in section 2303.21 of the Revised Code; | 19709 19710 19711 |
| (H) Publication of an advertisement, notice, or proclamation required to be published by a trustee, assignee, executor, administrator, receiver, or other officer of the court or a party in a case or proceeding, as provided in section 7.13 of the Revised Code; | 19712 19713 19714 19715 19716 |
| (I) Publication of calendars, motion dockets, legal advertisements, and notices, the fees for which are not fixed by law, as provided in section 2701.09 of the Revised Code; | 19717 19718 19719 |
| (J) Sheriffs, as provided in section 311.17 of the Revised Code; | 19720 19721 |
| (K) Township constables or members of the police force of a township police district or joint police district, as provided in section 509.15 of the Revised Code; | 19722 19723 19724 |
| (L) Witnesses, as follows: | 19725 |
| (1) Fees and mileage in civil cases, as provided in section 2335.06 of the Revised Code; | 19726 19727 |

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| (2) Fees and mileage in criminal cases, as provided in section 2335.08 of the Revised Code; | 19728 19729 |
| (3) Fees in all cases or proceedings not specified in sections 2335.06 and 2335.08 of the Revised Code, as provided in section 2335.05 of the Revised Code; | 19730 19731 19732 |
| (4) Fees of municipal police officers in state felony cases, as provided in section 2335.17 of the Revised Code; | 19733 19734 |
| (5) Fees in arbitration proceedings, as provided in section 2711.06 of the Revised Code. | 19735 19736 |
| (M) In an action to abate a nuisance or to enforce a local code relating to buildings, the expenses of operating and conserving the building, as provided in section 3767.41 of the Revised Code. | 19737 19738 19739 19740 |
| Sec. 2746.03. 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, the supreme court, a court of appeals, or the court of claims 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: | 19741 19742 19743 19744 19745 19746 19747 |
| (A) In the supreme court, filing fees, as provided in section 2503.17 of the Revised Code; | 19748 19749 |
| (B) In a court of appeals: | 19750 |
| (1) Fees collectible by the clerk of a court of common pleas when acting as the clerk of the court of appeals of the county, as provided in section 2303.03 of the Revised Code; | 19751 19752 19753 |
| (2) Additional filing fees or charges for special projects, programs, or services, as provided in section 2501.16 of the Revised Code; | 19754 19755 19756 |

| | |
|--|--|
| (3) Sheriffs or other officers who serve process, as provided in section 2501.19 of the Revised Code; | 19757 19758 |
| (4) Shorthand reporters <u>Reporters</u> , as provided in section 2501.17 of the Revised Code; | 19759 19760 |
| (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. | 19761 19762 19763 19764 |
| (C) In the court of claims: | 19765 |
| (1) The fees provided for in section 2743.09 of the Revised Code; | 19766 19767 |
| (2) Witness fees and mileage, as provided in section 2743.06 of the Revised Code. | 19768 19769 |
| 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: | 19770 19771 19772 19773 19774 19775 19776 |
| (A) The fees provided for in section 2303.20 of the Revised Code; | 19777 19778 |
| (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; | 19779 19780 19781 19782 19783 19784 19785 19786 |

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| (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; | 19787 19788 19789 |
| (D) Filing of a foreign judgment pursuant to section 2329.022 of the Revised Code, as provided in section 2329.025 of the Revised Code; | 19790 19791 19792 |
| (E) Interpreters, as provided in section 2301.14 of the Revised Code; | 19793 19794 |
| (F) Jurors in civil actions, as provided in section 2335.28 of the Revised Code; | 19795 19796 |
| (G) Shorthand reporters <u>Reporters</u> , as provided in sections 2301.21 and 2301.24 of the Revised Code; | 19797 19798 |
| (H) In a case involving the operation by a nonresident of a vessel upon the waters in this state, or the operation on the waters in this state of a vessel owned by a nonresident if operated with his consent, actual traveling expenses of the defendant, as provided in section 1547.36 of the Revised Code; | 19799 19800 19801 19802 19803 |
| (I) In a civil case, the expenses of taking a deposition of a person who is imprisoned in a workhouse, juvenile detention facility, jail, or state correctional institution within this state, or who is in the custody of the department of youth services, as provided in section 2317.06 of the Revised Code; | 19804 19805 19806 19807 19808 |
| (J) In proceedings relating to the examination of a judgment debtor under sections 2333.09 to 2333.27 of the Revised Code, compensation for clerks, sheriffs, referees, receivers, and witnesses, as provided in section 2333.27 of the Revised Code; | 19809 19810 19811 19812 |
| (K) In an appeal from an order of an agency issued pursuant to an adjudication under section 119.12 of the Revised Code, the expense of preparing and transcribing the record; | 19813 19814 19815 |
| (L) In a case in which the court issues a protection order | 19816 |

upon a petition alleging that the respondent engaged in domestic violence against a family or household member, the cost of supervision of the respondent's exercise of parenting time, visitation, or companionship rights, as provided in section 3113.31 of the Revised Code;

(M) Upon a petition to have a person involuntarily institutionalized, the costs of appointed counsel for the respondent at a full hearing, as provided in section 5123.76 of the Revised Code;

(N) In a case before the domestic relations division of the Hamilton county court of common pleas, the expense of serving a summons, warrant, citation, subpoena, or other writ issued to an officer other than a bailiff, constable, or staff investigator of the division, as provided in section 2301.03 of the Revised Code.

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the Revised Code:

(A) "Care facility" means any of the following:

(1) Any "home" as defined in section 3721.10 or 5111.20 of the Revised Code;

(2) Any "residential facility" as defined in section 5123.19 of the Revised Code;

(3) Any institution or facility operated or provided by the department of mental health or by the department of developmental disabilities pursuant to sections 5119.02 and 5123.03 of the Revised Code;

(4) Any "residential facility" as defined in section 5119.22 of the Revised Code;

(5) Any unit of any hospital, as defined in section 3701.01 of the Revised Code, that provides the same services as a nursing home, as defined in section 3721.01 of the Revised Code;

(6) Any institution, residence, or facility that provides, 19847
for a period of more than twenty-four hours, whether for a 19848
consideration or not, accommodations to one individual or two 19849
unrelated individuals who are dependent upon the services of 19850
others; 19851

~~(7) Any "adult care facility" as defined in section 5119.70 19852
of the Revised Code; 19853~~

~~(8) Any adult foster home certified under section 5119.692 of 19854
the Revised Code. 19855~~

(B) "Abuse" means knowingly causing physical harm or 19856
recklessly causing serious physical harm to a person by physical 19857
contact with the person or by the inappropriate use of a physical 19858
or chemical restraint, medication, or isolation on the person. 19859

(C)(1) "Gross neglect" means knowingly failing to provide a 19860
person with any treatment, care, goods, or service that is 19861
necessary to maintain the health or safety of the person when the 19862
failure results in physical harm or serious physical harm to the 19863
person. 19864

(2) "Neglect" means recklessly failing to provide a person 19865
with any treatment, care, goods, or service that is necessary to 19866
maintain the health or safety of the person when the failure 19867
results in serious physical harm to the person. 19868

(D) "Inappropriate use of a physical or chemical restraint, 19869
medication, or isolation" means the use of physical or chemical 19870
restraint, medication, or isolation as punishment, for staff 19871
convenience, excessively, as a substitute for treatment, or in 19872
quantities that preclude habilitation and treatment. 19873

Sec. 2907.29. Every hospital of this state that offers 19874
organized emergency services shall provide that a physician, a 19875
physician assistant, a clinical nurse specialist, a certified 19876

nurse practitioner, or a certified nurse-midwife is available on 19877
call twenty-four hours each day for the examination of persons 19878
reported to any law enforcement agency to be victims of sexual 19879
offenses cognizable as violations of any provision of sections 19880
2907.02 to 2907.06 of the Revised Code. The physician, physician 19881
assistant, clinical nurse specialist, certified nurse 19882
practitioner, or certified nurse-midwife, upon the request of any 19883
peace officer or prosecuting attorney and with the consent of the 19884
reported victim or upon the request of the reported victim, shall 19885
examine the person for the purposes of gathering physical evidence 19886
and shall complete any written documentation of the physical 19887
examination. The ~~public director of health council~~ shall establish 19888
procedures for gathering evidence under this section. 19889

Each reported victim shall be informed of available venereal 19890
disease, pregnancy, medical, and psychiatric services. 19891

Notwithstanding any other provision of law, a minor may 19892
consent to examination under this section. The consent is not 19893
subject to disaffirmance because of minority, and consent of the 19894
parent, parents, or guardian of the minor is not required for an 19895
examination under this section. However, the hospital shall give 19896
written notice to the parent, parents, or guardian of a minor that 19897
an examination under this section has taken place. The parent, 19898
parents, or guardian of a minor giving consent under this section 19899
are not liable for payment for any services provided under this 19900
section without their consent. 19901

Sec. 2909.21. As used in sections 2909.21 to ~~2909.34~~ 2909.31 19902
of the Revised Code: 19903

(A) "Act of terrorism" means an act that is committed within 19904
or outside the territorial jurisdiction of this state or the 19905
United States, that constitutes a specified offense if committed 19906
in this state or constitutes an offense in any jurisdiction within 19907

or outside the territorial jurisdiction of the United States 19908
containing all of the essential elements of a specified offense, 19909
and that is intended to do one or more of the following: 19910

(1) Intimidate or coerce a civilian population; 19911

(2) Influence the policy of any government by intimidation or 19912
coercion; 19913

(3) Affect the conduct of any government by the act that 19914
constitutes the offense. 19915

(B) "Biological agent," "delivery system," "toxin," and 19916
"vector" have the same meanings as in section 2917.33 of the 19917
Revised Code. 19918

(C) "Biological weapon" means any biological agent, toxin, 19919
vector, or delivery system or combination of any biological agent 19920
or agents, any toxin or toxins, any vector or vectors, and any 19921
delivery system or systems. 19922

(D) "Chemical weapon" means any one or more of the following: 19923

(1) Any toxic chemical or precursor of a toxic chemical that 19924
is listed in Schedule 1, Schedule 2, or Schedule 3 of the 19925
international "Convention on the Prohibition of the Development, 19926
Production, Stockpiling and Use of Chemical Weapons and on their 19927
Destruction (CWC)," as entered into force on April 29, 1997; 19928

(2) A device specifically designed to cause death or other 19929
harm through the toxic properties of a toxic chemical or precursor 19930
identified in division (D)(1) of this section that would be 19931
created or released as a result of the employment of that device; 19932

(3) Any equipment specifically designed for use directly in 19933
connection with the employment of devices identified in division 19934
(D)(2) of this section. 19935

(E) "Radiological or nuclear weapon" means any device that is 19936
designed to create or release radiation or radioactivity at a 19937

level that is dangerous to human life or in order to cause serious 19938
physical harm to persons as a result of the radiation or 19939
radioactivity created or released. 19940

(F) "Explosive device" has the same meaning as in section 19941
2923.11 of the Revised Code. 19942

(G) "Key component of a binary or multicomponent chemical 19943
system" means the precursor that plays the most important role in 19944
determining the toxic properties of the final product and reacts 19945
rapidly with other chemicals in the binary or multicomponent 19946
chemical system. 19947

~~(H) "Material assistance" means any of the following:~~ 19948

~~(1) Membership in an organization on the United States 19949
department of state terrorist exclusion list;~~ 19950

~~(2) Use of the person's position of prominence within any 19951
country to persuade others to support an organization on the 19952
United States department of state terrorist exclusion list;~~ 19953

~~(3) Knowingly soliciting funds or other things of value for 19954
an organization on the United States department of state terrorist 19955
exclusion list;~~ 19956

~~(4) Solicitation of any individual for membership in an 19957
organization on the United States department of state terrorist 19958
exclusion list;~~ 19959

~~(5) Commission of an act that the person knows, or reasonably 19960
should have known, affords material support or resources to an 19961
organization on the United States department of state terrorist 19962
exclusion list;~~ 19963

~~(6) Hiring or compensating a person known by the person 19964
hiring or providing the compensation to be a member of an 19965
organization on the United States department of state terrorist 19966
exclusion list or a person known by the person hiring or providing 19967~~

~~the compensation to be engaged in planning, assisting, or carrying out an act of terrorism.~~ 19968
19969

~~(I)~~ "Material support or resources" means currency, payment instruments, other financial securities, funds, transfer of funds, financial services, communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials. 19970
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~~(J)~~(I) "Payment instrument" means a check, draft, money order, traveler's check, cashier's check, teller's check, or other instrument or order for the transmission or payment of money, regardless of whether the item in question is negotiable. 19977
19978
19979
19980

~~(K)~~(J) "Peace officer" and "prosecutor" have the same meanings as in section 2935.01 of the Revised Code. 19981
19982

~~(L)~~(K) "Precursor" means any chemical reactant that takes part at any stage in the production by whatever method of a toxic chemical, including any key component of a binary or multicomponent chemical system. 19983
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19986

~~(M)~~(L) "Response costs" means all costs a political subdivision incurs as a result of, or in making any response to, a threat of a specified offense made as described in section 2909.23 of the Revised Code or a specified offense committed as described in section 2909.24 of the Revised Code, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the political subdivision and all costs so incurred by the political subdivision that relate to laboratory testing or hazardous material cleanup. 19987
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~~(N)~~(M) "Specified offense" means any of the following: 19997

(1) A felony offense of violence, a violation of section 19998

2909.04, 2909.081, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 19999
2909.28, 2909.29, or 2927.24 of the Revised Code, a felony of the 20000
first degree that is not a violation of any provision in Chapter 20001
2925. or 3719. of the Revised Code; 20002

(2) An attempt to commit, complicity in committing, or a 20003
conspiracy to commit an offense listed in division ~~(N)~~(M)(1) of 20004
this section. 20005

~~(O)~~(N) "Toxic chemical" means any chemical that through its 20006
chemical action on life processes can cause death or serious 20007
physical harm to persons or animals, regardless of its origin or 20008
of its method of production and regardless of whether it is 20009
produced in facilities, in munitions, or elsewhere. 20010

~~(P)~~ "United States department of state terrorist exclusion 20011
list" and "terrorist exclusion list" means the list compiled by 20012
the United States secretary of state, in consultation with or upon 20013
the request of the United States attorney general, that designates 20014
terrorist organizations for immigration purposes. "United States 20015
department of state terrorist exclusion list" and "terrorist 20016
exclusion list" also mean the list of terrorist organizations the 20017
director of public safety prepares pursuant to rules adopted in 20018
accordance with Chapter 119. of the Revised Code, that is 20019
comprised of lists of organizations officials of the United States 20020
government designate as terrorist, including the "terrorist 20021
exclusion list" described in this division, the list of "foreign 20022
terrorist organizations" the United States secretary of state 20023
prepares in consultation with the United States attorney general 20024
and the United States secretary of the treasury, and the list of 20025
charities that support terrorist activities, known as "designated 20026
charities," that the United States department of treasury 20027
compiles. 20028

~~(Q)~~(O) "Hazardous radioactive substance" means any substance 20029
or item that releases or is designed to release radiation or 20030

radioactivity at a level dangerous to human life. 20031

Sec. 2909.28. (A) No person, with the intent to manufacture a 20032
chemical weapon, biological weapon, radiological or nuclear 20033
weapon, or explosive device, shall knowingly assemble or possess 20034
one or more toxins, toxic chemicals, precursors of toxic 20035
chemicals, vectors, biological agents, or hazardous radioactive 20036
substances, ~~including, but not limited to, those listed in rules~~ 20037
~~the director of public safety adopts,~~ that may be used to 20038
manufacture a chemical weapon, biological weapon, radiological or 20039
nuclear weapon, or explosive device. 20040

(B) In a prosecution under this section, it is not necessary 20041
to allege or prove that the offender assembled or possessed all 20042
chemicals or substances necessary to manufacture a chemical 20043
weapon, biological weapon, radiological or nuclear weapon, or 20044
explosive device. The assembly or possession of a single chemical 20045
or substance, with the intent to use that chemical or substance in 20046
the manufacture of a chemical weapon, biological weapon, 20047
radiological or nuclear weapon, or explosive device, is sufficient 20048
to violate this section. 20049

(C) Whoever violates this section is guilty of illegal 20050
assembly or possession of chemicals or substances for the 20051
manufacture of a chemical weapon, biological weapon, radiological 20052
or nuclear weapon, or explosive device, which is a felony of the 20053
fourth degree. 20054

(D) This section does not apply when the items described in 20055
division (A) of this section are assembled or possessed for a 20056
purpose related to the performance of official duties related to 20057
any military purpose of the United States and any law enforcement 20058
purpose, including any domestic riot control purpose. 20059

Sec. 2927.023. (A) As used in this section ~~"authorized:~~ 20060

(1) "Authorized recipient of tobacco products" means a person 20061
who is: 20062

~~(1)~~(a) Licensed as a cigarette wholesale dealer under section 20063
5743.15 of the Revised Code; 20064

~~(2)~~(b) Licensed as a retail dealer as long as the person 20065
purchases cigarettes with the appropriate tax stamp affixed; 20066

~~(3)~~(c) An export warehouse proprietor as defined in section 20067
5702 of the Internal Revenue Code; 20068

~~(4)~~(d) An operator of a customs bonded warehouse under 19 20069
U.S.C. 1311 or 19 U.S.C. 1555; 20070

~~(5)~~(e) An officer, employee, or agent of the federal 20071
government or of this state acting in the person's official 20072
capacity; 20073

~~(6)~~(f) A department, agency, instrumentality, or political 20074
subdivision of the federal government or of this state; 20075

~~(7)~~(g) A person having a consent for consumer shipment issued 20076
by the tax commissioner under section 5743.71 of the Revised Code. 20077

(2) "Motor carrier" has the same meaning as in section 20078
4923.01 of the Revised Code. 20079

The purpose of this section is to prevent the sale of 20080
cigarettes to minors and to ensure compliance with the Master 20081
Settlement Agreement, as defined in section 1346.01 of the Revised 20082
Code. 20083

(B)(1) No person shall cause to be shipped any cigarettes to 20084
any person in this state other than an authorized recipient of 20085
tobacco products. 20086

(2) No ~~common carrier, contract~~ motor carrier, or other 20087
person shall knowingly transport cigarettes to any person in this 20088
state that the carrier or other person reasonably believes is not 20089
an authorized recipient of tobacco products. If cigarettes are 20090

transported to a home or residence, it shall be presumed that the
~~common carrier, contract~~ motor carrier, or other person knew that
the person to whom the cigarettes were delivered was not an
authorized recipient of tobacco products.

(C) No person engaged in the business of selling cigarettes
who ships or causes to be shipped cigarettes to any person in this
state in any container or wrapping other than the original
container or wrapping of the cigarettes shall fail to plainly and
visibly mark the exterior of the container or wrapping in which
the cigarettes are shipped with the words "cigarettes."

(D) A court shall impose a fine of up to one thousand dollars
for each violation of division (B)(1), (B)(2), or (C) of this
section.

Sec. 2929.01. As used in this chapter:

(A)(1) "Alternative residential facility" means, subject to
division (A)(2) of this section, any facility other than an
offender's home or residence in which an offender is assigned to
live and that satisfies all of the following criteria:

(a) It provides programs through which the offender may seek
or maintain employment or may receive education, training,
treatment, or habilitation.

(b) It has received the appropriate license or certificate
for any specialized education, training, treatment, habilitation,
or other service that it provides from the government agency that
is responsible for licensing or certifying that type of education,
training, treatment, habilitation, or service.

(2) "Alternative residential facility" does not include a
community-based correctional facility, jail, halfway house, or
prison.

(B) "Basic probation supervision" means a requirement that

the offender maintain contact with a person appointed to supervise 20121
the offender in accordance with sanctions imposed by the court or 20122
imposed by the parole board pursuant to section 2967.28 of the 20123
Revised Code. "Basic probation supervision" includes basic parole 20124
supervision and basic post-release control supervision. 20125

(C) "Cocaine," "hashish," "L.S.D.," and "unit dose" have the 20126
same meanings as in section 2925.01 of the Revised Code. 20127

(D) "Community-based correctional facility" means a 20128
community-based correctional facility and program or district 20129
community-based correctional facility and program developed 20130
pursuant to sections 2301.51 to 2301.58 of the Revised Code. 20131

(E) "Community control sanction" means a sanction that is not 20132
a prison term and that is described in section 2929.15, 2929.16, 20133
2929.17, or 2929.18 of the Revised Code or a sanction that is not 20134
a jail term and that is described in section 2929.26, 2929.27, or 20135
2929.28 of the Revised Code. "Community control sanction" includes 20136
probation if the sentence involved was imposed for a felony that 20137
was committed prior to July 1, 1996, or if the sentence involved 20138
was imposed for a misdemeanor that was committed prior to January 20139
1, 2004. 20140

(F) "Controlled substance," "marihuana," "schedule I," and 20141
"schedule II" have the same meanings as in section 3719.01 of the 20142
Revised Code. 20143

(G) "Curfew" means a requirement that an offender during a 20144
specified period of time be at a designated place. 20145

(H) "Day reporting" means a sanction pursuant to which an 20146
offender is required each day to report to and leave a center or 20147
other approved reporting location at specified times in order to 20148
participate in work, education or training, treatment, and other 20149
approved programs at the center or outside the center. 20150

(I) "Deadly weapon" has the same meaning as in section 20151

2923.11 of the Revised Code. 20152

(J) "Drug and alcohol use monitoring" means a program under 20153
which an offender agrees to submit to random chemical analysis of 20154
the offender's blood, breath, or urine to determine whether the 20155
offender has ingested any alcohol or other drugs. 20156

(K) "Drug treatment program" means any program under which a 20157
person undergoes assessment and treatment designed to reduce or 20158
completely eliminate the person's physical or emotional reliance 20159
upon alcohol, another drug, or alcohol and another drug and under 20160
which the person may be required to receive assessment and 20161
treatment on an outpatient basis or may be required to reside at a 20162
facility other than the person's home or residence while 20163
undergoing assessment and treatment. 20164

(L) "Economic loss" means any economic detriment suffered by 20165
a victim as a direct and proximate result of the commission of an 20166
offense and includes any loss of income due to lost time at work 20167
because of any injury caused to the victim, and any property loss, 20168
medical cost, or funeral expense incurred as a result of the 20169
commission of the offense. "Economic loss" does not include 20170
non-economic loss or any punitive or exemplary damages. 20171

(M) "Education or training" includes study at, or in 20172
conjunction with a program offered by, a university, college, or 20173
technical college or vocational study and also includes the 20174
completion of primary school, secondary school, and literacy 20175
curricula or their equivalent. 20176

(N) "Firearm" has the same meaning as in section 2923.11 of 20177
the Revised Code. 20178

(O) "Halfway house" means a facility licensed by the division 20179
of parole and community services of the department of 20180
rehabilitation and correction pursuant to section 2967.14 of the 20181
Revised Code as a suitable facility for the care and treatment of 20182

adult offenders. 20183

(P) "House arrest" means a period of confinement of an 20184
offender that is in the offender's home or in other premises 20185
specified by the sentencing court or by the parole board pursuant 20186
to section 2967.28 of the Revised Code and during which all of the 20187
following apply: 20188

(1) The offender is required to remain in the offender's home 20189
or other specified premises for the specified period of 20190
confinement, except for periods of time during which the offender 20191
is at the offender's place of employment or at other premises as 20192
authorized by the sentencing court or by the parole board. 20193

(2) The offender is required to report periodically to a 20194
person designated by the court or parole board. 20195

(3) The offender is subject to any other restrictions and 20196
requirements that may be imposed by the sentencing court or by the 20197
parole board. 20198

(Q) "Intensive probation supervision" means a requirement 20199
that an offender maintain frequent contact with a person appointed 20200
by the court, or by the parole board pursuant to section 2967.28 20201
of the Revised Code, to supervise the offender while the offender 20202
is seeking or maintaining necessary employment and participating 20203
in training, education, and treatment programs as required in the 20204
court's or parole board's order. "Intensive probation supervision" 20205
includes intensive parole supervision and intensive post-release 20206
control supervision. 20207

(R) "Jail" means a jail, workhouse, minimum security jail, or 20208
other residential facility used for the confinement of alleged or 20209
convicted offenders that is operated by a political subdivision or 20210
a combination of political subdivisions of this state. 20211

(S) "Jail term" means the term in a jail that a sentencing 20212
court imposes or is authorized to impose pursuant to section 20213

2929.24 or 2929.25 of the Revised Code or pursuant to any other 20214
provision of the Revised Code that authorizes a term in a jail for 20215
a misdemeanor conviction. 20216

(T) "Mandatory jail term" means the term in a jail that a 20217
sentencing court is required to impose pursuant to division (G) of 20218
section 1547.99 of the Revised Code, division (E) of section 20219
2903.06 or division (D) of section 2903.08 of the Revised Code, 20220
division (E) or (G) of section 2929.24 of the Revised Code, 20221
division (B) of section 4510.14 of the Revised Code, or division 20222
(G) of section 4511.19 of the Revised Code or pursuant to any 20223
other provision of the Revised Code that requires a term in a jail 20224
for a misdemeanor conviction. 20225

(U) "Delinquent child" has the same meaning as in section 20226
2152.02 of the Revised Code. 20227

(V) "License violation report" means a report that is made by 20228
a sentencing court, or by the parole board pursuant to section 20229
2967.28 of the Revised Code, to the regulatory or licensing board 20230
or agency that issued an offender a professional license or a 20231
license or permit to do business in this state and that specifies 20232
that the offender has been convicted of or pleaded guilty to an 20233
offense that may violate the conditions under which the offender's 20234
professional license or license or permit to do business in this 20235
state was granted or an offense for which the offender's 20236
professional license or license or permit to do business in this 20237
state may be revoked or suspended. 20238

(W) "Major drug offender" means an offender who is convicted 20239
of or pleads guilty to the possession of, sale of, or offer to 20240
sell any drug, compound, mixture, preparation, or substance that 20241
consists of or contains at least one thousand grams of hashish; at 20242
least one hundred grams of cocaine; at least two thousand five 20243
hundred unit doses or two hundred fifty grams of heroin; at least 20244
five thousand unit doses of L.S.D. or five hundred grams of L.S.D. 20245

in a liquid concentrate, liquid extract, or liquid distillate 20246
form; or at least one hundred times the amount of any other 20247
schedule I or II controlled substance other than marihuana that is 20248
necessary to commit a felony of the third degree pursuant to 20249
section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised Code 20250
that is based on the possession of, sale of, or offer to sell the 20251
controlled substance. 20252

(X) "Mandatory prison term" means any of the following: 20253

(1) Subject to division (X)(2) of this section, the term in 20254
prison that must be imposed for the offenses or circumstances set 20255
forth in divisions (F)(1) to (8) or (F)(12) to (18) of section 20256
2929.13 and division (B) of section 2929.14 of the Revised Code. 20257
Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, 20258
and 2925.11 of the Revised Code, unless the maximum or another 20259
specific term is required under section 2929.14 or 2929.142 of the 20260
Revised Code, a mandatory prison term described in this division 20261
may be any prison term authorized for the level of offense. 20262

(2) The term of sixty or one hundred twenty days in prison 20263
that a sentencing court is required to impose for a third or 20264
fourth degree felony OVI offense pursuant to division (G)(2) of 20265
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 20266
of the Revised Code or the term of one, two, three, four, or five 20267
years in prison that a sentencing court is required to impose 20268
pursuant to division (G)(2) of section 2929.13 of the Revised 20269
Code. 20270

(3) The term in prison imposed pursuant to division (A) of 20271
section 2971.03 of the Revised Code for the offenses and in the 20272
circumstances described in division (F)(11) of section 2929.13 of 20273
the Revised Code or pursuant to division (B)(1)(a), (b), or (c), 20274
(B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 20275
2971.03 of the Revised Code and that term as modified or 20276
terminated pursuant to section 2971.05 of the Revised Code. 20277

(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 20308
section. 20309

(DD) "Sanction" means any penalty imposed upon an offender 20310
who is convicted of or pleads guilty to an offense, as punishment 20311
for the offense. "Sanction" includes any sanction imposed pursuant 20312
to any provision of sections 2929.14 to 2929.18 or 2929.24 to 20313
2929.28 of the Revised Code. 20314

(EE) "Sentence" means the sanction or combination of 20315
sanctions imposed by the sentencing court on an offender who is 20316
convicted of or pleads guilty to an offense. 20317

(FF) "Stated prison term" means the prison term, mandatory 20318
prison term, or combination of all prison terms and mandatory 20319
prison terms imposed by the sentencing court pursuant to section 20320
2929.14, 2929.142, or 2971.03 of the Revised Code or under section 20321
2919.25 of the Revised Code. "Stated prison term" includes any 20322
credit received by the offender for time spent in jail awaiting 20323
trial, sentencing, or transfer to prison for the offense and any 20324
time spent under house arrest or house arrest with electronic 20325
monitoring imposed after earning credits pursuant to section 20326
2967.193 of the Revised Code. If an offender is serving a prison 20327
term as a risk reduction sentence under sections 2929.142 and 20328
5120.036 of the Revised Code, "stated prison term" includes any 20329
period of time by which the prison term imposed upon the offender 20330
is shortened by the offender's successful completion of all 20331
assessment and treatment or programming pursuant to those 20332
sections. 20333

(GG) "Victim-offender mediation" means a reconciliation or 20334
mediation program that involves an offender and the victim of the 20335
offense committed by the offender and that includes a meeting in 20336
which the offender and the victim may discuss the offense, discuss 20337
restitution, and consider other sanctions for the offense. 20338

(HH) "Fourth degree felony OVI offense" means a violation of 20339
division (A) of section 4511.19 of the Revised Code that, under 20340
division (G) of that section, is a felony of the fourth degree. 20341

(II) "Mandatory term of local incarceration" means the term 20342
of sixty or one hundred twenty days in a jail, a community-based 20343
correctional facility, a halfway house, or an alternative 20344
residential facility that a sentencing court may impose upon a 20345
person who is convicted of or pleads guilty to a fourth degree 20346
felony OVI offense pursuant to division (G)(1) of section 2929.13 20347
of the Revised Code and division (G)(1)(d) or (e) of section 20348
4511.19 of the Revised Code. 20349

(JJ) "Designated homicide, assault, or kidnapping offense," 20350
"violent sex offense," "sexual motivation specification," 20351
"sexually violent offense," "sexually violent predator," and 20352
"sexually violent predator specification" have the same meanings 20353
as in section 2971.01 of the Revised Code. 20354

(KK) "Sexually oriented offense," "child-victim oriented 20355
offense," and "tier III sex offender/child-victim offender₇" have 20356
the same meanings as in section 2950.01 of the Revised Code. 20357

(LL) An offense is "committed in the vicinity of a child" if 20358
the offender commits the offense within thirty feet of or within 20359
the same residential unit as a child who is under eighteen years 20360
of age, regardless of whether the offender knows the age of the 20361
child or whether the offender knows the offense is being committed 20362
within thirty feet of or within the same residential unit as the 20363
child and regardless of whether the child actually views the 20364
commission of the offense. 20365

(MM) "Family or household member" has the same meaning as in 20366
section 2919.25 of the Revised Code. 20367

(NN) "Motor vehicle" and "manufactured home" have the same 20368
meanings as in section 4501.01 of the Revised Code. 20369

(OO) "Detention" and "detention facility" have the same meanings as in section 2921.01 of the Revised Code. 20370
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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. 20372
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(QQ) "Random drug testing" has the same meaning as in section 5120.63 of the Revised Code. 20375
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(RR) "Felony sex offense" has the same meaning as in section 2967.28 of the Revised Code. 20377
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(SS) "Body armor" has the same meaning as in section 2941.1411 of the Revised Code. 20379
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(TT) "Electronic monitoring" means monitoring through the use of an electronic monitoring device. 20381
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(UU) "Electronic monitoring device" means any of the following: 20383
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(1) Any device that can be operated by electrical or battery power and that conforms with all of the following: 20385
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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. 20387
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(b) The device has a receiver that can receive continuously 20400
the signals transmitted by a transmitter of the type described in 20401
division (UU)(1)(a) of this section, can transmit continuously 20402
those signals by a wireless or landline telephone connection to a 20403
central monitoring computer of the type described in division 20404
(UU)(1)(c) of this section, and can transmit continuously an 20405
appropriate signal to that central monitoring computer if the 20406
device has been turned off or altered without prior court approval 20407
or otherwise tampered with. The device is designed specifically 20408
for use in electronic monitoring, is not a converted wireless 20409
phone or another tracking device that is clearly not designed for 20410
electronic monitoring, and provides a means of text-based or voice 20411
communication with the person. 20412

(c) The device has a central monitoring computer that can 20413
receive continuously the signals transmitted by a wireless or 20414
landline telephone connection by a receiver of the type described 20415
in division (UU)(1)(b) of this section and can monitor 20416
continuously the person to whom an electronic monitoring device of 20417
the type described in division (UU)(1)(a) of this section is 20418
attached. 20419

(2) Any device that is not a device of the type described in 20420
division (UU)(1) of this section and that conforms with all of the 20421
following: 20422

(a) The device includes a transmitter and receiver that can 20423
monitor and determine the location of a subject person at any 20424
time, or at a designated point in time, through the use of a 20425
central monitoring computer or through other electronic means. 20426

(b) The device includes a transmitter and receiver that can 20427
determine at any time, or at a designated point in time, through 20428
the use of a central monitoring computer or other electronic means 20429
the fact that the transmitter is turned off or altered in any 20430
manner without prior approval of the court in relation to the 20431

electronic monitoring or without prior approval of the department 20432
of rehabilitation and correction in relation to the use of an 20433
electronic monitoring device for an inmate on transitional control 20434
or otherwise is tampered with. 20435

(3) Any type of technology that can adequately track or 20436
determine the location of a subject person at any time and that is 20437
approved by the director of rehabilitation and correction, 20438
including, but not limited to, any satellite technology, voice 20439
tracking system, or retinal scanning system that is so approved. 20440

(VV) "Non-economic loss" means nonpecuniary harm suffered by 20441
a victim of an offense as a result of or related to the commission 20442
of the offense, including, but not limited to, pain and suffering; 20443
loss of society, consortium, companionship, care, assistance, 20444
attention, protection, advice, guidance, counsel, instruction, 20445
training, or education; mental anguish; and any other intangible 20446
loss. 20447

(WW) "Prosecutor" has the same meaning as in section 2935.01 20448
of the Revised Code. 20449

(XX) "Continuous alcohol monitoring" means the ability to 20450
automatically test and periodically transmit alcohol consumption 20451
levels and tamper attempts at least every hour, regardless of the 20452
location of the person who is being monitored. 20453

(YY) A person is "adjudicated a sexually violent predator" if 20454
the person is convicted of or pleads guilty to a violent sex 20455
offense and also is convicted of or pleads guilty to a sexually 20456
violent predator specification that was included in the 20457
indictment, count in the indictment, or information charging that 20458
violent sex offense or if the person is convicted of or pleads 20459
guilty to a designated homicide, assault, or kidnapping offense 20460
and also is convicted of or pleads guilty to both a sexual 20461
motivation specification and a sexually violent predator 20462

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. 20494
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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. 20496
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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. 20499
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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. 20503
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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. 20508
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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 20521
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report made pursuant to section 2951.03 of the Revised Code or 20525
Criminal Rule 32.2, and any victim impact statement made pursuant 20526
to section 2947.051 of the Revised Code. 20527

(2) Subject to division (B)(3) of this section, if the 20528
sentencing court determines at the sentencing hearing that a 20529
prison term is necessary or required, the court shall do all of 20530
the following: 20531

(a) Impose a stated prison term and, if the court imposes a 20532
mandatory prison term, notify the offender that the prison term is 20533
a mandatory prison term; 20534

(b) In addition to any other information, include in the 20535
sentencing entry the name and section reference to the offense or 20536
offenses, the sentence or sentences imposed and whether the 20537
sentence or sentences contain mandatory prison terms, if sentences 20538
are imposed for multiple counts whether the sentences are to be 20539
served concurrently or consecutively, and the name and section 20540
reference of any specification or specifications for which 20541
sentence is imposed and the sentence or sentences imposed for the 20542
specification or specifications; 20543

(c) Notify the offender that the offender will be supervised 20544
under section 2967.28 of the Revised Code after the offender 20545
leaves prison if the offender is being sentenced for a felony of 20546
the first degree or second degree, for a felony sex offense, or 20547
for a felony of the third degree that is not a felony sex offense 20548
and in the commission of which the offender caused or threatened 20549
to cause physical harm to a person. This division applies with 20550
respect to all prison terms imposed for an offense of a type 20551
described in this division, including a term imposed for any such 20552
offense that is a risk reduction sentence, as defined in section 20553
2967.28 of the Revised Code. If a court imposes a sentence 20554
including a prison term of a type described in division (B)(2)(c) 20555
of this section on or after July 11, 2006, the failure of a court 20556

to notify the offender pursuant to division (B)(2)(c) of this 20557
section that the offender will be supervised under section 2967.28 20558
of the Revised Code after the offender leaves prison or to include 20559
in the judgment of conviction entered on the journal a statement 20560
to that effect does not negate, limit, or otherwise affect the 20561
mandatory period of supervision that is required for the offender 20562
under division (B) of section 2967.28 of the Revised Code. Section 20563
2929.191 of the Revised Code applies if, prior to July 11, 2006, a 20564
court imposed a sentence including a prison term of a type 20565
described in division (B)(2)(c) of this section and failed to 20566
notify the offender pursuant to division (B)(2)(c) of this section 20567
regarding post-release control or to include in the judgment of 20568
conviction entered on the journal or in the sentence a statement 20569
regarding post-release control. 20570

(d) Notify the offender that the offender may be supervised 20571
under section 2967.28 of the Revised Code after the offender 20572
leaves prison if the offender is being sentenced for a felony of 20573
the third, fourth, or fifth degree that is not subject to division 20574
(B)(2)(c) of this section. This division applies with respect to 20575
all prison terms imposed for an offense of a type described in 20576
this division, including a term imposed for any such offense that 20577
is a risk reduction sentence, as defined in section 2967.28 of the 20578
Revised Code. Section 2929.191 of the Revised Code applies if, 20579
prior to July 11, 2006, a court imposed a sentence including a 20580
prison term of a type described in division (B)(2)(d) of this 20581
section and failed to notify the offender pursuant to division 20582
(B)(2)(d) of this section regarding post-release control or to 20583
include in the judgment of conviction entered on the journal or in 20584
the sentence a statement regarding post-release control. 20585

(e) Notify the offender that, if a period of supervision is 20586
imposed following the offender's release from prison, as described 20587
in division (B)(2)(c) or (d) of this section, and if the offender 20588

violates that supervision or a condition of post-release control 20589
imposed under division (B) of section 2967.131 of the Revised 20590
Code, the parole board may impose a prison term, as part of the 20591
sentence, of up to one-half of the stated prison term originally 20592
imposed upon the offender. If a court imposes a sentence including 20593
a prison term on or after July 11, 2006, the failure of a court to 20594
notify the offender pursuant to division (B)(2)(e) of this section 20595
that the parole board may impose a prison term as described in 20596
division (B)(2)(e) of this section for a violation of that 20597
supervision or a condition of post-release control imposed under 20598
division (B) of section 2967.131 of the Revised Code or to include 20599
in the judgment of conviction entered on the journal a statement 20600
to that effect does not negate, limit, or otherwise affect the 20601
authority of the parole board to so impose a prison term for a 20602
violation of that nature if, pursuant to division (D)(1) of 20603
section 2967.28 of the Revised Code, the parole board notifies the 20604
offender prior to the offender's release of the board's authority 20605
to so impose a prison term. Section 2929.191 of the Revised Code 20606
applies if, prior to July 11, 2006, a court imposed a sentence 20607
including a prison term and failed to notify the offender pursuant 20608
to division (B)(2)(e) of this section regarding the possibility of 20609
the parole board imposing a prison term for a violation of 20610
supervision or a condition of post-release control. 20611

(f) Require that the offender not ingest or be injected with 20612
a drug of abuse and submit to random drug testing as provided in 20613
section 341.26, 753.33, or 5120.63 of the Revised Code, whichever 20614
is applicable to the offender who is serving a prison term, and 20615
require that the results of the drug test administered under any 20616
of those sections indicate that the offender did not ingest or was 20617
not injected with a drug of abuse. 20618

(g) Include in the offender's sentence a statement notifying 20619
the offender of the information described in division (F)(3) of 20620

section 2929.14 of the Revised Code regarding earned credits under 20621
section 2967.193 of the Revised Code. 20622

(h)(i) Determine, notify the offender of, and include in the 20623
sentencing entry the number of days that the offender has been 20624
confined for any reason arising out of the offense for which the 20625
offender is being sentenced and by which the department of 20626
rehabilitation and correction must reduce the stated prison term 20627
under section 2967.191 of the Revised Code. The court's 20628
calculation shall not include the number of days, if any, that the 20629
offender previously served in the custody of the department of 20630
rehabilitation and correction arising out of the offense for which 20631
the prisoner was convicted and sentenced. 20632

(ii) In making a determination under division (B)(2)(h)(i) of 20633
this section, the court shall consider the arguments of the 20634
parties and conduct a hearing if one is requested. 20635

(iii) The sentencing court retains continuing jurisdiction to 20636
correct any error not previously raised at sentencing in making a 20637
determination under division (B)(2)(h)(i) of this section. The 20638
offender may, at any time after sentencing, file a motion in the 20639
sentencing court to correct any error made in making a 20640
determination under division (B)(2)(h)(i) of this section, and the 20641
court may in its discretion grant or deny that motion. If the 20642
court changes the number of days in its determination or 20643
redetermination, the court shall cause the entry granting that 20644
change to be delivered to the department of rehabilitation and 20645
correction without delay. Sections 2931.15 and 2953.21 of the 20646
Revised Code do not apply to a motion made under this section. 20647

(iv) An inaccurate determination under division (B)(2)(h)(i) 20648
of this section is not grounds for setting aside the offender's 20649
conviction or sentence and does not otherwise render the sentence 20650
void or voidable. 20651

(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 20683
(B)(3)(a)(i) to (vii) of this section is satisfied, in the 20684
circumstances described in division (E) of section 2929.14 of the 20685
Revised Code, the court shall impose sentence on the offender as 20686
described in that division. 20687

(4) If the sentencing court determines at the sentencing 20688
hearing that a community control sanction should be imposed and 20689
the court is not prohibited from imposing a community control 20690
sanction, the court shall impose a community control sanction. The 20691
court shall notify the offender that, if the conditions of the 20692
sanction are violated, if the offender commits a violation of any 20693
law, or if the offender leaves this state without the permission 20694
of the court or the offender's probation officer, the court may 20695
impose a longer time under the same sanction, may impose a more 20696
restrictive sanction, or may impose a prison term on the offender 20697
and shall indicate the specific prison term that may be imposed as 20698
a sanction for the violation, as selected by the court from the 20699
range of prison terms for the offense pursuant to section 2929.14 20700
of the Revised Code. 20701

(5) Before imposing a financial sanction under section 20702
2929.18 of the Revised Code or a fine under section 2929.32 of the 20703
Revised Code, the court shall consider the offender's present and 20704
future ability to pay the amount of the sanction or fine. 20705

(6) If the sentencing court sentences the offender to a 20706
sanction of confinement pursuant to section 2929.14 or 2929.16 of 20707
the Revised Code that is to be served in a local detention 20708
facility, as defined in section 2929.36 of the Revised Code, and 20709
if the local detention facility is covered by a policy adopted 20710
pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 20711
753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code 20712
and section 2929.37 of the Revised Code, both of the following 20713
apply: 20714

(a) The court shall specify both of the following as part of the sentence:

(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.

(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.

(b) The sentence automatically includes any certificate of judgment issued as described in division (B)(6)(a)(ii) of this section.

(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. 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

incarceration in accordance with that division, shall impose a 20746
mandatory fine in accordance with division (B)(3) of section 20747
2929.18 of the Revised Code, and, in addition, may impose 20748
additional sanctions as specified in sections 2929.15, 2929.16, 20749
2929.17, and 2929.18 of the Revised Code. The court shall not 20750
impose a prison term on the offender except that the court may 20751
impose a prison term upon the offender as provided in division 20752
(A)(1) of section 2929.13 of the Revised Code. 20753

(2) If the offender is being sentenced for a third or fourth 20754
degree felony OVI offense under division (G)(2) of section 2929.13 20755
of the Revised Code, the court shall impose the mandatory prison 20756
term in accordance with that division, shall impose a mandatory 20757
fine in accordance with division (B)(3) of section 2929.18 of the 20758
Revised Code, and, in addition, may impose an additional prison 20759
term as specified in section 2929.14 of the Revised Code. In 20760
addition to the mandatory prison term or mandatory prison term and 20761
additional prison term the court imposes, the court also may 20762
impose a community control sanction on the offender, but the 20763
offender shall serve all of the prison terms so imposed prior to 20764
serving the community control sanction. 20765

(D) The sentencing court, pursuant to division (I)(1) of 20766
section 2929.14 of the Revised Code, may recommend placement of 20767
the offender in a program of shock incarceration under section 20768
5120.031 of the Revised Code or an intensive program prison under 20769
section 5120.032 of the Revised Code, disapprove placement of the 20770
offender in a program or prison of that nature, or make no 20771
recommendation. If the court recommends or disapproves placement, 20772
it shall make a finding that gives its reasons for its 20773
recommendation or disapproval. 20774

Sec. 2939.11. The official ~~shorthand~~ reporter of the county, 20775
or any ~~shorthand~~ reporter designated by the court of common pleas, 20776

at the request of the prosecuting attorney, or any such reporter 20777
designated by the attorney general in investigations conducted by 20778
~~him~~ the attorney general, may take ~~shorthand~~ notes of or 20779
electronically record testimony before the grand jury, and furnish 20780
a transcript to the prosecuting attorney or the attorney general, 20781
and to no other person. The ~~shorthand~~ reporter shall withdraw from 20782
the jury room before the jurors begin to express their views or 20783
take their vote on the matter before them. Such reporter shall 20784
take an oath to be administered by the judge after the grand jury 20785
is sworn, imposing an obligation of secrecy to not disclose any 20786
testimony taken or heard except to the grand jury, prosecuting 20787
attorney, or attorney general, unless called upon in court to make 20788
disclosures. 20789

Sec. 2945.371. (A) If the issue of a defendant's competence 20790
to stand trial is raised or if a defendant enters a plea of not 20791
guilty by reason of insanity, the court may order one or more 20792
evaluations of the defendant's present mental condition or, in the 20793
case of a plea of not guilty by reason of insanity, of the 20794
defendant's mental condition at the time of the offense charged. 20795
An examiner shall conduct the evaluation. 20796

(B) If the court orders more than one evaluation under 20797
division (A) of this section, the prosecutor and the defendant may 20798
recommend to the court an examiner whom each prefers to perform 20799
one of the evaluations. If a defendant enters a plea of not guilty 20800
by reason of insanity and if the court does not designate an 20801
examiner recommended by the defendant, the court shall inform the 20802
defendant that the defendant may have independent expert 20803
evaluation and that, if the defendant is unable to obtain 20804
independent expert evaluation, it will be obtained for the 20805
defendant at public expense if the defendant is indigent. 20806

(C) If the court orders an evaluation under division (A) of 20807

this section, the defendant shall be available at the times and 20808
places established by the examiners who are to conduct the 20809
evaluation. The court may order a defendant who has been released 20810
on bail or recognizance to submit to an evaluation under this 20811
section. If a defendant who has been released on bail or 20812
recognizance refuses to submit to a complete evaluation, the court 20813
may amend the conditions of bail or recognizance and order the 20814
sheriff to take the defendant into custody and deliver the 20815
defendant to a center, program, or facility operated or certified 20816
by the department of mental health or the department of 20817
developmental disabilities where the defendant may be held for 20818
evaluation for a reasonable period of time not to exceed twenty 20819
days. 20820

(D) A defendant who has not been released on bail or 20821
recognizance may be evaluated at the defendant's place of 20822
detention. Upon the request of the examiner, the court may order 20823
the sheriff to transport the defendant to a program or facility 20824
operated or certified by the department of mental health or the 20825
department of developmental disabilities, where the defendant may 20826
be held for evaluation for a reasonable period of time not to 20827
exceed twenty days, and to return the defendant to the place of 20828
detention after the evaluation. A municipal court may make an 20829
order under this division only upon the request of a certified 20830
forensic center examiner. 20831

(E) If a court orders the evaluation to determine a 20832
defendant's mental condition at the time of the offense charged, 20833
the court shall inform the examiner of the offense with which the 20834
defendant is charged. 20835

(F) In conducting an evaluation of a defendant's mental 20836
condition at the time of the offense charged, the examiner shall 20837
consider all relevant evidence. If the offense charged involves 20838
the use of force against another person, the relevant evidence to 20839

be considered includes, but is not limited to, any evidence that 20840
the defendant suffered, at the time of the commission of the 20841
offense, from the "battered woman syndrome." 20842

(G) The examiner shall file a written report with the court 20843
within thirty days after entry of a court order for evaluation, 20844
and the court shall provide copies of the report to the prosecutor 20845
and defense counsel. The report shall include all of the 20846
following: 20847

(1) The examiner's findings; 20848

(2) The facts in reasonable detail on which the findings are 20849
based; 20850

(3) If the evaluation was ordered to determine the 20851
defendant's competence to stand trial, all of the following 20852
findings or recommendations that are applicable: 20853

(a) Whether the defendant is capable of understanding the 20854
nature and objective of the proceedings against the defendant or 20855
of assisting in the defendant's defense; 20856

(b) If the examiner's opinion is that the defendant is 20857
incapable of understanding the nature and objective of the 20858
proceedings against the defendant or of assisting in the 20859
defendant's defense, whether the defendant presently is mentally 20860
ill or mentally retarded and, if the examiner's opinion is that 20861
the defendant presently is mentally retarded, whether the 20862
defendant appears to be a mentally retarded person subject to 20863
institutionalization by court order; 20864

(c) If the examiner's opinion is that the defendant is 20865
incapable of understanding the nature and objective of the 20866
proceedings against the defendant or of assisting in the 20867
defendant's defense, the examiner's opinion as to the likelihood 20868
of the defendant becoming capable of understanding the nature and 20869
objective of the proceedings against the defendant and of 20870

assisting in the defendant's defense within one year if the 20871
defendant is provided with a course of treatment; 20872

(d) If the examiner's opinion is that the defendant is 20873
incapable of understanding the nature and objective of the 20874
proceedings against the defendant or of assisting in the 20875
defendant's defense and that the defendant presently is mentally 20876
ill or mentally retarded, the examiner's recommendation as to the 20877
least restrictive placement or commitment alternative, consistent 20878
with the defendant's treatment needs for restoration to competency 20879
and with the safety of the community; 20880

~~(e) If the defendant is charged with a misdemeanor offense 20881
that is not an offense of violence and the examiner's opinion is 20882
that the defendant is incapable of understanding the nature and 20883
objective of the proceedings against the defendant or of assisting 20884
in the defendant's defense and that the defendant is presently 20885
mentally ill or mentally retarded, the examiner's recommendation 20886
as to whether the defendant is amenable to engagement in mental 20887
health treatment or developmental disability services. 20888~~

(4) If the evaluation was ordered to determine the 20889
defendant's mental condition at the time of the offense charged, 20890
the examiner's findings as to whether the defendant, at the time 20891
of the offense charged, did not know, as a result of a severe 20892
mental disease or defect, the wrongfulness of the defendant's acts 20893
charged. 20894

(H) If the examiner's report filed under division (G) of this 20895
section indicates that in the examiner's opinion the defendant is 20896
incapable of understanding the nature and objective of the 20897
proceedings against the defendant or of assisting in the 20898
defendant's defense and that in the examiner's opinion the 20899
defendant appears to be a mentally retarded person subject to 20900
institutionalization by court order, the court shall order the 20901
defendant to undergo a separate mental retardation evaluation 20902

conducted by a psychologist designated by the director of 20903
developmental disabilities. Divisions (C) to (F) of this section 20904
apply in relation to a separate mental retardation evaluation 20905
conducted under this division. The psychologist appointed under 20906
this division to conduct the separate mental retardation 20907
evaluation shall file a written report with the court within 20908
thirty days after the entry of the court order requiring the 20909
separate mental retardation evaluation, and the court shall 20910
provide copies of the report to the prosecutor and defense 20911
counsel. The report shall include all of the information described 20912
in divisions (G)(1) to (4) of this section. If the court orders a 20913
separate mental retardation evaluation of a defendant under this 20914
division, the court shall not conduct a hearing under divisions 20915
(B) to (H) of section 2945.37 of the Revised Code regarding that 20916
defendant until a report of the separate mental retardation 20917
evaluation conducted under this division has been filed. Upon the 20918
filing of that report, the court shall conduct the hearing within 20919
the period of time specified in division (C) of section 2945.37 of 20920
the Revised Code. 20921

(I) An examiner appointed under divisions (A) and (B) of this 20922
section or under division (H) of this section to evaluate a 20923
defendant to determine the defendant's competence to stand trial 20924
also may be appointed to evaluate a defendant who has entered a 20925
plea of not guilty by reason of insanity, but an examiner of that 20926
nature shall prepare separate reports on the issue of competence 20927
to stand trial and the defense of not guilty by reason of 20928
insanity. 20929

(J) No statement that a defendant makes in an evaluation or 20930
hearing under divisions (A) to (H) of this section relating to the 20931
defendant's competence to stand trial or to the defendant's mental 20932
condition at the time of the offense charged shall be used against 20933
the defendant on the issue of guilt in any criminal action or 20934

proceeding, but, in a criminal action or proceeding, the 20935
prosecutor or defense counsel may call as a witness any person who 20936
evaluated the defendant or prepared a report pursuant to a 20937
referral under this section. Neither the appointment nor the 20938
testimony of an examiner appointed under this section precludes 20939
the prosecutor or defense counsel from calling other witnesses or 20940
presenting other evidence on competency or insanity issues. 20941

(K) Persons appointed as examiners under divisions (A) and 20942
(B) of this section or under division (H) of this section shall be 20943
paid a reasonable amount for their services and expenses, as 20944
certified by the court. The certified amount shall be paid by the 20945
county in the case of county courts and courts of common pleas and 20946
by the legislative authority, as defined in section 1901.03 of the 20947
Revised Code, in the case of municipal courts. 20948

Sec. 2945.38. (A) If the issue of a defendant's competence to 20949
stand trial is raised and if the court, upon conducting the 20950
hearing provided for in section 2945.37 of the Revised Code, finds 20951
that the defendant is competent to stand trial, the defendant 20952
shall be proceeded against as provided by law. If the court finds 20953
the defendant competent to stand trial and the defendant is 20954
receiving psychotropic drugs or other medication, the court may 20955
authorize the continued administration of the drugs or medication 20956
or other appropriate treatment in order to maintain the 20957
defendant's competence to stand trial, unless the defendant's 20958
attending physician advises the court against continuation of the 20959
drugs, other medication, or treatment. 20960

(B)(1)(a) If, after taking into consideration all relevant 20961
reports, information, and other evidence, the court finds that the 20962
defendant is incompetent to stand trial and that there is a 20963
substantial probability that the defendant will become competent 20964
to stand trial within one year if the defendant is provided with a 20965

course of treatment, the court shall order the defendant to 20966
undergo treatment. If the defendant has been charged with a felony 20967
offense and if, after taking into consideration all relevant 20968
reports, information, and other evidence, the court finds that the 20969
defendant is incompetent to stand trial, but the court is unable 20970
at that time to determine whether there is a substantial 20971
probability that the defendant will become competent to stand 20972
trial within one year if the defendant is provided with a course 20973
of treatment, the court shall order continuing evaluation and 20974
treatment of the defendant for a period not to exceed four months 20975
to determine whether there is a substantial probability that the 20976
defendant will become competent to stand trial within one year if 20977
the defendant is provided with a course of treatment. 20978

(b) The court order for the defendant to undergo treatment or 20979
continuing evaluation and treatment under division (B)(1)(a) of 20980
this section shall specify that the defendant, if determined to 20981
require mental health treatment or continuing evaluation and 20982
treatment, either shall be committed to the department of mental 20983
health for treatment or continuing evaluation and treatment at a 20984
hospital, facility, or agency, as determined to be clinically 20985
appropriate by the department of mental health ~~and~~ or shall be 20986
committed to a facility certified by the department of mental 20987
health as being qualified to treat mental illness, to a public or 20988
community mental health facility, or to a psychiatrist or another 20989
mental health professional for treatment or continuing evaluation 20990
and treatment. Prior to placing the defendant, the department of 20991
mental health shall obtain court approval for that placement 20992
following a hearing. The court order for the defendant to undergo 20993
treatment or continuing evaluation and treatment under division 20994
(B)(1)(a) of this section shall specify that the defendant, if 20995
determined to require treatment or continuing evaluation and 20996
treatment for ~~a developmental disability~~ mental retardation, shall 20997
receive treatment or continuing evaluation and treatment at an 20998

institution or facility operated by the department of 20999
developmental disabilities, at a facility certified by the 21000
department of developmental disabilities as being qualified to 21001
treat mental retardation, at a public or private ~~community~~ mental 21002
retardation facility, or by a psychiatrist or another mental 21003
retardation professional. ~~The~~ In any case, the order may restrict 21004
the defendant's freedom of movement as the court considers 21005
necessary. The prosecutor in the defendant's case shall send to 21006
the chief clinical officer of the hospital, facility, or agency 21007
where the defendant is placed by the department of mental health, 21008
or to the managing officer of the institution, the director of the 21009
program or facility, or the person to which the defendant is 21010
committed, copies of relevant police reports and other background 21011
information that pertains to the defendant and is available to the 21012
prosecutor unless the prosecutor determines that the release of 21013
any of the information in the police reports or any of the other 21014
background information to unauthorized persons would interfere 21015
with the effective prosecution of any person or would create a 21016
substantial risk of harm to any person. 21017

~~In committing the defendant to the department of mental 21018
health, the court shall consider the extent to which the person is 21019
a danger to the person and to others, the need for security, and 21020
the type of crime involved and, if the court finds that 21021
restrictions on the defendant's freedom of movement are necessary, 21022
shall specify the least restrictive limitations on the person's 21023
freedom of movement determined to be necessary to protect public 21024
safety. In determining the place of commitment alternatives for 21025
defendants determined to require treatment or continuing 21026
evaluation and treatment for developmental disabilities, the court 21027
shall consider the extent to which the person is a danger to the 21028
person and to others, the need for security, and the type of crime 21029
involved and shall order the least restrictive alternative 21030
available that is consistent with public safety and treatment 21031~~

goals. In weighing these factors, the court shall give preference 21032
to protecting public safety. 21033

(c) If the defendant is found incompetent to stand trial, if 21034
the chief clinical officer of the hospital, facility, or agency 21035
where the defendant is placed, or the managing officer of the 21036
institution, the director of the program or facility, or the 21037
person to which the defendant is committed for treatment or 21038
continuing evaluation and treatment under division (B)(1)(b) of 21039
this section determines that medication is necessary to restore 21040
the defendant's competency to stand trial, and if the defendant 21041
lacks the capacity to give informed consent or refuses medication, 21042
the chief clinical officer of the hospital, facility, or agency 21043
where the defendant is placed, or the managing officer of the 21044
institution, the director of the program or facility, or the 21045
person to which the defendant is committed for treatment or 21046
continuing evaluation and treatment may petition the court for 21047
authorization for the involuntary administration of medication. 21048
The court shall hold a hearing on the petition within five days of 21049
the filing of the petition if the petition was filed in a 21050
municipal court or a county court regarding an incompetent 21051
defendant charged with a misdemeanor or within ten days of the 21052
filing of the petition if the petition was filed in a court of 21053
common pleas regarding an incompetent defendant charged with a 21054
felony offense. Following the hearing, the court may authorize the 21055
involuntary administration of medication or may dismiss the 21056
petition. 21057

~~(d) If the defendant is charged with a misdemeanor offense 21058
that is not an offense of violence, the prosecutor may hold the 21059
charges in abeyance while the defendant engages in mental health 21060
treatment or developmental disability services. 21061~~

(2) If the court finds that the defendant is incompetent to 21062
stand trial and that, even if the defendant is provided with a 21063

course of treatment, there is not a substantial probability that 21064
the defendant will become competent to stand trial within one 21065
year, the court shall order the discharge of the defendant, unless 21066
upon motion of the prosecutor or on its own motion, the court 21067
either seeks to retain jurisdiction over the defendant pursuant to 21068
section 2945.39 of the Revised Code or files an affidavit in the 21069
probate court for the civil commitment of the defendant pursuant 21070
to Chapter 5122. or 5123. of the Revised Code alleging that the 21071
defendant is a mentally ill person subject to hospitalization by 21072
court order or a mentally retarded person subject to 21073
institutionalization by court order. If an affidavit is filed in 21074
the probate court, the trial court shall send to the probate court 21075
copies of all written reports of the defendant's mental condition 21076
that were prepared pursuant to section 2945.371 of the Revised 21077
Code. 21078

The trial court may issue the temporary order of detention 21079
that a probate court may issue under section 5122.11 or 5123.71 of 21080
the Revised Code, to remain in effect until the probable cause or 21081
initial hearing in the probate court. Further proceedings in the 21082
probate court are civil proceedings governed by Chapter 5122. or 21083
5123. of the Revised Code. 21084

(C) No defendant shall be required to undergo treatment, 21085
including any continuing evaluation and treatment, under division 21086
(B)(1) of this section for longer than whichever of the following 21087
periods is applicable: 21088

(1) One year, if the most serious offense with which the 21089
defendant is charged is one of the following offenses: 21090

(a) Aggravated murder, murder, or an offense of violence for 21091
which a sentence of death or life imprisonment may be imposed; 21092

(b) An offense of violence that is a felony of the first or 21093
second degree; 21094

(c) A conspiracy to commit, an attempt to commit, or 21095
complicity in the commission of an offense described in division 21096
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 21097
complicity is a felony of the first or second degree. 21098

(2) Six months, if the most serious offense with which the 21099
defendant is charged is a felony other than a felony described in 21100
division (C)(1) of this section; 21101

(3) Sixty days, if the most serious offense with which the 21102
defendant is charged is a misdemeanor of the first or second 21103
degree; 21104

(4) Thirty days, if the most serious offense with which the 21105
defendant is charged is a misdemeanor of the third or fourth 21106
degree, a minor misdemeanor, or an unclassified misdemeanor. 21107

(D) Any defendant who is committed pursuant to this section 21108
shall not voluntarily admit the defendant or be voluntarily 21109
admitted to a hospital or institution pursuant to section 5122.02, 21110
5122.15, 5123.69, or 5123.76 of the Revised Code. 21111

(E) Except as otherwise provided in this division, a 21112
defendant who is charged with an offense and is committed by the 21113
court under this section to the department of mental health ~~with~~ 21114
~~restrictions on the defendant's freedom of movement~~ or is 21115
committed to an institution or facility for the treatment of 21116
~~developmental disabilities~~ mental retardation shall not be granted 21117
unsupervised on-grounds movement, supervised off-grounds movement, 21118
or nonsecured status except in accordance with the court order. 21119
The court may grant a defendant supervised off-grounds movement to 21120
obtain medical treatment or specialized habilitation treatment 21121
services if the person who supervises the treatment or the 21122
continuing evaluation and treatment of the defendant ordered under 21123
division (B)(1)(a) of this section informs the court that the 21124
treatment or continuing evaluation and treatment cannot be 21125

provided at the hospital or facility where the defendant is placed 21126
by the department of mental health or the institution or facility 21127
to which the defendant is committed. The chief clinical officer of 21128
the hospital or facility where the defendant is placed by the 21129
department of mental health or the managing officer of the 21130
institution or director of the facility to which the defendant is 21131
committed, or a designee of any of those persons, may grant a 21132
defendant movement to a medical facility for an emergency medical 21133
situation with appropriate supervision to ensure the safety of the 21134
defendant, staff, and community during that emergency medical 21135
situation. The chief clinical officer of the hospital or facility 21136
where the defendant is placed by the department of mental health 21137
or the managing officer of the institution or director of the 21138
facility to which the defendant is committed shall notify the 21139
court within twenty-four hours of the defendant's movement to the 21140
medical facility for an emergency medical situation under this 21141
division. 21142

(F) The person who supervises the treatment or continuing 21143
evaluation and treatment of a defendant ordered to undergo 21144
treatment or continuing evaluation and treatment under division 21145
(B)(1)(a) of this section shall file a written report with the 21146
court at the following times: 21147

(1) Whenever the person believes the defendant is capable of 21148
understanding the nature and objective of the proceedings against 21149
the defendant and of assisting in the defendant's defense; 21150

(2) For a felony offense, fourteen days before expiration of 21151
the maximum time for treatment as specified in division (C) of 21152
this section and fourteen days before the expiration of the 21153
maximum time for continuing evaluation and treatment as specified 21154
in division (B)(1)(a) of this section, and, for a misdemeanor 21155
offense, ten days before the expiration of the maximum time for 21156
treatment, as specified in division (C) of this section; 21157

(3) At a minimum, after each six months of treatment; 21158

(4) Whenever the person who supervises the treatment or 21159
continuing evaluation and treatment of a defendant ordered under 21160
division (B)(1)(a) of this section believes that there is not a 21161
substantial probability that the defendant will become capable of 21162
understanding the nature and objective of the proceedings against 21163
the defendant or of assisting in the defendant's defense even if 21164
the defendant is provided with a course of treatment. 21165

(G) A report under division (F) of this section shall contain 21166
the examiner's findings, the facts in reasonable detail on which 21167
the findings are based, and the examiner's opinion as to the 21168
defendant's capability of understanding the nature and objective 21169
of the proceedings against the defendant and of assisting in the 21170
defendant's defense. If, in the examiner's opinion, the defendant 21171
remains incapable of understanding the nature and objective of the 21172
proceedings against the defendant and of assisting in the 21173
defendant's defense and there is a substantial probability that 21174
the defendant will become capable of understanding the nature and 21175
objective of the proceedings against the defendant and of 21176
assisting in the defendant's defense if the defendant is provided 21177
with a course of treatment, if in the examiner's opinion the 21178
defendant remains mentally ill or mentally retarded, and if the 21179
maximum time for treatment as specified in division (C) of this 21180
section has not expired, the report also shall contain the 21181
examiner's recommendation as to the least restrictive placement or 21182
commitment alternative that is consistent with the defendant's 21183
treatment needs for restoration to competency and with the safety 21184
of the community. The court shall provide copies of the report to 21185
the prosecutor and defense counsel. 21186

(H) If a defendant is committed pursuant to division (B)(1) 21187
of this section, within ten days after the treating physician of 21188
the defendant or the examiner of the defendant who is employed or 21189

retained by the treating facility advises that there is not a 21190
substantial probability that the defendant will become capable of 21191
understanding the nature and objective of the proceedings against 21192
the defendant or of assisting in the defendant's defense even if 21193
the defendant is provided with a course of treatment, within ten 21194
days after the expiration of the maximum time for treatment as 21195
specified in division (C) of this section, within ten days after 21196
the expiration of the maximum time for continuing evaluation and 21197
treatment as specified in division (B)(1)(a) of this section, 21198
within thirty days after a defendant's request for a hearing that 21199
is made after six months of treatment, or within thirty days after 21200
being advised by the treating physician or examiner that the 21201
defendant is competent to stand trial, whichever is the earliest, 21202
the court shall conduct another hearing to determine if the 21203
defendant is competent to stand trial and shall do whichever of 21204
the following is applicable: 21205

(1) If the court finds that the defendant is competent to 21206
stand trial, the defendant shall be proceeded against as provided 21207
by law. 21208

(2) If the court finds that the defendant is incompetent to 21209
stand trial, but that there is a substantial probability that the 21210
defendant will become competent to stand trial if the defendant is 21211
provided with a course of treatment, and the maximum time for 21212
treatment as specified in division (C) of this section has not 21213
expired, the court, after consideration of the examiner's 21214
recommendation, shall order that treatment be continued, may 21215
change the ~~least restrictive limitations on the defendant's~~ 21216
~~freedom of movement~~ facility or program at which the treatment is 21217
to be continued, and, ~~if applicable~~, shall specify whether the 21218
treatment ~~for developmental disabilities~~ is to be continued at the 21219
same or a different facility or ~~institution~~ program. 21220

(3) If the court finds that the defendant is incompetent to 21221

stand trial, if the defendant is charged with an offense listed in 21222
division (C)(1) of this section, and if the court finds that there 21223
is not a substantial probability that the defendant will become 21224
competent to stand trial even if the defendant is provided with a 21225
course of treatment, or if the maximum time for treatment relative 21226
to that offense as specified in division (C) of this section has 21227
expired, further proceedings shall be as provided in sections 21228
2945.39, 2945.401, and 2945.402 of the Revised Code. 21229

(4) If the court finds that the defendant is incompetent to 21230
stand trial, if the most serious offense with which the defendant 21231
is charged is a misdemeanor or a felony other than a felony listed 21232
in division (C)(1) of this section, and if the court finds that 21233
there is not a substantial probability that the defendant will 21234
become competent to stand trial even if the defendant is provided 21235
with a course of treatment, or if the maximum time for treatment 21236
relative to that offense as specified in division (C) of this 21237
section has expired, the court shall dismiss the indictment, 21238
information, or complaint against the defendant. A dismissal under 21239
this division is not a bar to further prosecution based on the 21240
same conduct. The court shall discharge the defendant unless the 21241
court or prosecutor files an affidavit in probate court for civil 21242
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 21243
If an affidavit for civil commitment is filed, the court may 21244
detain the defendant for ten days pending civil commitment. All of 21245
the following provisions apply to persons charged with a 21246
misdemeanor or a felony other than a felony listed in division 21247
(C)(1) of this section who are committed by the probate court 21248
subsequent to the court's or prosecutor's filing of an affidavit 21249
for civil commitment under authority of this division: 21250

(a) The chief clinical officer of the entity, hospital, or 21251
facility, the managing officer of the institution, the director of 21252
the program, or the person to which the defendant is committed or 21253

admitted shall do all of the following: 21254

(i) Notify the prosecutor, in writing, of the discharge of 21255
the defendant, send the notice at least ten days prior to the 21256
discharge unless the discharge is by the probate court, and state 21257
in the notice the date on which the defendant will be discharged; 21258

(ii) Notify the prosecutor, in writing, when the defendant is 21259
absent without leave or is granted unsupervised, off-grounds 21260
movement, and send this notice promptly after the discovery of the 21261
absence without leave or prior to the granting of the 21262
unsupervised, off-grounds movement, whichever is applicable; 21263

(iii) Notify the prosecutor, in writing, of the change of the 21264
defendant's commitment or admission to voluntary status, send the 21265
notice promptly upon learning of the change to voluntary status, 21266
and state in the notice the date on which the defendant was 21267
committed or admitted on a voluntary status. 21268

(b) Upon receiving notice that the defendant will be granted 21269
unsupervised, off-grounds movement, the prosecutor either shall 21270
re-indict the defendant or promptly notify the court that the 21271
prosecutor does not intend to prosecute the charges against the 21272
defendant. 21273

(I) If a defendant is convicted of a crime and sentenced to a 21274
jail or workhouse, the defendant's sentence shall be reduced by 21275
the total number of days the defendant is confined for evaluation 21276
to determine the defendant's competence to stand trial or 21277
treatment under this section and sections 2945.37 and 2945.371 of 21278
the Revised Code or by the total number of days the defendant is 21279
confined for evaluation to determine the defendant's mental 21280
condition at the time of the offense charged. 21281

Sec. 2945.39. (A) If a defendant who is charged with an 21282
offense described in division (C)(1) of section 2945.38 of the 21283

Revised Code is found incompetent to stand trial, after the 21284
expiration of the maximum time for treatment as specified in 21285
division (C) of that section or after the court finds that there 21286
is not a substantial probability that the defendant will become 21287
competent to stand trial even if the defendant is provided with a 21288
course of treatment, one of the following applies: 21289

(1) The court or the prosecutor may file an affidavit in 21290
probate court for civil commitment of the defendant in the manner 21291
provided in Chapter 5122. or 5123. of the Revised Code. If the 21292
court or prosecutor files an affidavit for civil commitment, the 21293
court may detain the defendant for ten days pending civil 21294
commitment. If the probate court commits the defendant subsequent 21295
to the court's or prosecutor's filing of an affidavit for civil 21296
commitment, the chief clinical officer of the entity, hospital, or 21297
facility, the managing officer of the institution, the director of 21298
the program, or the person to which the defendant is committed or 21299
admitted shall send to the prosecutor the notices described in 21300
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 21301
Code within the periods of time and under the circumstances 21302
specified in those divisions. 21303

(2) On the motion of the prosecutor or on its own motion, the 21304
court may retain jurisdiction over the defendant if, at a hearing, 21305
the court finds both of the following by clear and convincing 21306
evidence: 21307

(a) The defendant committed the offense with which the 21308
defendant is charged. 21309

(b) The defendant is a mentally ill person subject to 21310
hospitalization by court order or a mentally retarded person 21311
subject to institutionalization by court order. 21312

(B) In making its determination under division (A)(2) of this 21313
section as to whether to retain jurisdiction over the defendant, 21314

the court may consider all relevant evidence, including, but not 21315
limited to, any relevant psychiatric, psychological, or medical 21316
testimony or reports, the acts constituting the offense charged, 21317
and any history of the defendant that is relevant to the 21318
defendant's ability to conform to the law. 21319

(C) If the court conducts a hearing as described in division 21320
(A)(2) of this section and if the court does not make both 21321
findings described in divisions (A)(2)(a) and (b) of this section 21322
by clear and convincing evidence, the court shall dismiss the 21323
indictment, information, or complaint against the defendant. Upon 21324
the dismissal, the court shall discharge the defendant unless the 21325
court or prosecutor files an affidavit in probate court for civil 21326
commitment of the defendant pursuant to Chapter 5122. or 5123. of 21327
the Revised Code. If the court or prosecutor files an affidavit 21328
for civil commitment, the court may order that the defendant be 21329
detained for up to ten days pending the civil commitment. If the 21330
probate court commits the defendant subsequent to the court's or 21331
prosecutor's filing of an affidavit for civil commitment, the 21332
chief clinical officer of the entity, hospital, or facility, the 21333
managing officer of the institution, the director of the program, 21334
or the person to which the defendant is committed or admitted 21335
shall send to the prosecutor the notices described in divisions 21336
(H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 21337
within the periods of time and under the circumstances specified 21338
in those divisions. A dismissal of charges under this division is 21339
not a bar to further criminal proceedings based on the same 21340
conduct. 21341

(D)(1) If the court conducts a hearing as described in 21342
division (A)(2) of this section and if the court makes the 21343
findings described in divisions (A)(2)(a) and (b) of this section 21344
by clear and convincing evidence, the court shall commit the 21345
defendant, if determined to require mental health treatment, 21346

either to the department of mental health for treatment at a 21347
hospital, facility, or agency as determined clinically appropriate 21348
by the department of mental health or to another medical or 21349
psychiatric facility, as appropriate. Prior to placing the 21350
defendant, the department of mental health shall obtain court 21351
approval for that placement. If the court conducts such a hearing 21352
and if it makes those findings by clear and convincing evidence, 21353
the court shall commit the defendant, if determined to require 21354
treatment for ~~developmental disabilities~~ mental retardation, to a 21355
facility operated by the department of developmental disabilities, 21356
or another facility, as appropriate. ~~In committing the defendant~~ 21357
~~to the department of mental health, the court shall specify the~~ 21358
~~least restrictive limitations on the defendant's freedom of~~ 21359
~~movement determined to be necessary to protect public safety. In~~ 21360
~~determining the place and nature of the commitment to a facility~~ 21361
~~operated by the department of developmental disabilities or~~ 21362
~~another facility for treatment of developmental disabilities, the~~ 21363
~~court~~ In determining the place of commitment, the court shall 21364
consider the extent to which the person is a danger to the person 21365
and to others, the need for security, and the type of crime 21366
involved and shall order the least restrictive ~~commitment~~ 21367
alternative available that is consistent with public safety and 21368
the welfare of the defendant. In weighing these factors, the court 21369
shall give preference to protecting public safety. 21370

(2) If a court makes a commitment of a defendant under 21371
division (D)(1) of this section, the prosecutor shall send to the 21372
hospital, facility, or agency where the defendant is placed by the 21373
department of mental health or to the defendant's place of 21374
commitment all reports of the defendant's current mental condition 21375
and, except as otherwise provided in this division, any other 21376
relevant information, including, but not limited to, a transcript 21377
of the hearing held pursuant to division (A)(2) of this section, 21378
copies of relevant police reports, and copies of any prior arrest 21379

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 21412
for ten court days or until the hearing, whichever occurs first. 21413

Any person detained pursuant to a temporary order of 21414
detention issued under this division shall be held in a suitable 21415
facility, taking into consideration the place and type of 21416
confinement prior to and during trial. 21417

(B) The court shall hold the hearing under division (A) of 21418
this section to determine whether the person found not guilty by 21419
reason of insanity is a mentally ill person subject to 21420
hospitalization by court order or a mentally retarded person 21421
subject to institutionalization by court order within ten court 21422
days after the finding of not guilty by reason of insanity. 21423
Failure to conduct the hearing within the ten-day period shall 21424
cause the immediate discharge of the respondent, unless the judge 21425
grants a continuance for not longer than ten court days for good 21426
cause shown or for any period of time upon motion of the 21427
respondent. 21428

(C) If a person is found not guilty by reason of insanity, 21429
the person has the right to attend all hearings conducted pursuant 21430
to sections 2945.37 to 2945.402 of the Revised Code. At any 21431
hearing conducted pursuant to one of those sections, the court 21432
shall inform the person that the person has all of the following 21433
rights: 21434

(1) The right to be represented by counsel and to have that 21435
counsel provided at public expense if the person is indigent, with 21436
the counsel to be appointed by the court under Chapter 120. of the 21437
Revised Code or under the authority recognized in division (C) of 21438
section 120.06, division (E) of section 120.16, division (E) of 21439
section 120.26, or section 2941.51 of the Revised Code; 21440

(2) The right to have independent expert evaluation and to 21441
have that independent expert evaluation provided at public expense 21442

if the person is indigent; 21443

(3) The right to subpoena witnesses and documents, to present 21444
evidence on the person's behalf, and to cross-examine witnesses 21445
against the person; 21446

(4) The right to testify in the person's own behalf and to 21447
not be compelled to testify; 21448

(5) The right to have copies of any relevant medical or 21449
mental health document in the custody of the state or of any place 21450
of commitment other than a document for which the court finds that 21451
the release to the person of information contained in the document 21452
would create a substantial risk of harm to any person. 21453

(D) The hearing under division (A) of this section shall be 21454
open to the public, and the court shall conduct the hearing in 21455
accordance with the Rules of Civil Procedure. The court shall make 21456
and maintain a full transcript and record of the hearing 21457
proceedings. The court may consider all relevant evidence, 21458
including, but not limited to, any relevant psychiatric, 21459
psychological, or medical testimony or reports, the acts 21460
constituting the offense in relation to which the person was found 21461
not guilty by reason of insanity, and any history of the person 21462
that is relevant to the person's ability to conform to the law. 21463

(E) Upon completion of the hearing under division (A) of this 21464
section, if the court finds there is not clear and convincing 21465
evidence that the person is a mentally ill person subject to 21466
hospitalization by court order or a mentally retarded person 21467
subject to institutionalization by court order, the court shall 21468
discharge the person, unless a detainer has been placed upon the 21469
person by the department of rehabilitation and correction, in 21470
which case the person shall be returned to that department. 21471

(F) If, at the hearing under division (A) of this section, 21472
the court finds by clear and convincing evidence that the person 21473

is a mentally ill person subject to hospitalization by court 21474
order, the court shall commit the person either to the department 21475
of mental health for ~~placement~~ treatment in a hospital, facility, 21476
or agency as determined clinically appropriate by the department 21477
of mental health or to another medical or psychiatric facility, as 21478
appropriate. Prior to placing the defendant, the department of 21479
mental health shall obtain court approval for that placement. If, 21480
at the hearing under division (A) of this section, the court ~~finds~~ 21481
determines by clear and convincing evidence that the person ~~is a~~ 21482
~~mentally retarded person subject to institutionalization by court~~ 21483
~~order~~ requires treatment for mental retardation, it shall commit 21484
the person to a facility operated by the department of 21485
developmental disabilities or another facility, as appropriate. 21486
Further proceedings shall be in accordance with sections 2945.401 21487
and 2945.402 of the Revised Code. ~~In committing the person to the~~ 21488
~~department of mental health, the court shall specify the least~~ 21489
~~restrictive limitations to the defendant's freedom of movement~~ 21490
~~determined to be necessary to protect public safety.~~ In 21491
determining the place ~~and nature of the commitment of a mentally~~ 21492
~~retarded person subject to institutionalization by court order,~~ 21493
the court shall consider the extent to which the person is a 21494
danger to the person and to others, the need for security, and the 21495
type of crime involved and shall order the least restrictive 21496
~~commitment~~ alternative available that is consistent with public 21497
safety and the welfare of the person. In weighing these factors, 21498
the court shall give preference to protecting public safety. 21499

(G) If a court makes a commitment of a person under division 21500
(F) of this section, the prosecutor shall send to the hospital, 21501
facility, or agency where the person is placed by the department 21502
of mental health or to the defendant's place of commitment all 21503
reports of the person's current mental condition, and, except as 21504
otherwise provided in this division, any other relevant 21505
information, including, but not limited to, a transcript of the 21506

hearing held pursuant to division (A) of this section, copies of 21507
relevant police reports, and copies of any prior arrest and 21508
conviction records that pertain to the person and that the 21509
prosecutor possesses. The prosecutor shall send the reports of the 21510
person's current mental condition in every case of commitment, 21511
and, unless the prosecutor determines that the release of any of 21512
the other relevant information to unauthorized persons would 21513
interfere with the effective prosecution of any person or would 21514
create a substantial risk of harm to any person, the prosecutor 21515
also shall send the other relevant information. Upon admission of 21516
a person committed under division (F) of this section, the place 21517
of commitment shall send to the board of alcohol, drug addiction, 21518
and mental health services or the community mental health board 21519
serving the county in which the charges against the person were 21520
filed a copy of all reports of the person's current mental 21521
condition and a copy of the other relevant information provided by 21522
the prosecutor under this division, including, if provided, a 21523
transcript of the hearing held pursuant to division (A) of this 21524
section, the relevant police reports, and the prior arrest and 21525
conviction records that pertain to the person and that the 21526
prosecutor possesses. 21527

(H) A person who is committed pursuant to this section shall 21528
not voluntarily admit the person or be voluntarily admitted to a 21529
hospital or institution pursuant to section 5122.02, 5122.15, 21530
5123.69, or 5123.76 of the Revised Code. 21531

Sec. 2945.401. (A) A defendant found incompetent to stand 21532
trial and committed pursuant to section 2945.39 of the Revised 21533
Code or a person found not guilty by reason of insanity and 21534
committed pursuant to section 2945.40 of the Revised Code shall 21535
remain subject to the jurisdiction of the trial court pursuant to 21536
that commitment, and to the provisions of this section, until the 21537
final termination of the commitment as described in division 21538

(J)(1) of this section. If the jurisdiction is terminated under 21539
this division because of the final termination of the commitment 21540
resulting from the expiration of the maximum prison term or term 21541
of imprisonment described in division (J)(1)(b) of this section, 21542
the court or prosecutor may file an affidavit for the civil 21543
commitment of the defendant or person pursuant to Chapter 5122. or 21544
5123. of the Revised Code. 21545

(B) A hearing conducted under any provision of sections 21546
2945.37 to 2945.402 of the Revised Code shall not be conducted in 21547
accordance with Chapters 5122. and 5123. of the Revised Code. Any 21548
person who is committed pursuant to section 2945.39 or 2945.40 of 21549
the Revised Code shall not voluntarily admit the person or be 21550
voluntarily admitted to a hospital or institution pursuant to 21551
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 21552
All other provisions of Chapters 5122. and 5123. of the Revised 21553
Code regarding hospitalization or institutionalization shall apply 21554
to the extent they are not in conflict with this chapter. A 21555
commitment under section 2945.39 or 2945.40 of the Revised Code 21556
shall not be terminated and the conditions of the commitment shall 21557
not be changed except as otherwise provided in division (D)(2) of 21558
this section with respect to a mentally retarded person subject to 21559
institutionalization by court order or except by order of the 21560
trial court. 21561

(C) The department of mental health or the institution ~~or~~ 21562
facility, or program to which a defendant or person has been 21563
committed under section 2945.39 or 2945.40 of the Revised Code 21564
shall report in writing to the trial court, at the times specified 21565
in this division, as to whether the defendant or person remains a 21566
mentally ill person subject to hospitalization by court order or a 21567
mentally retarded person subject to institutionalization by court 21568
order and, in the case of a defendant committed under section 21569
2945.39 of the Revised Code, as to whether the defendant remains 21570

incompetent to stand trial. The department, institution, ~~or~~ 21571
facility, or program shall make the reports after the initial six 21572
months of treatment and every two years after the initial report 21573
is made. The trial court shall provide copies of the reports to 21574
the prosecutor and to the counsel for the defendant or person. 21575
Within thirty days after its receipt pursuant to this division of 21576
a report from the department, institution, ~~or~~ facility, or 21577
program, the trial court shall hold a hearing on the continued 21578
commitment of the defendant or person or on any changes in the 21579
conditions of the commitment of the defendant or person. The 21580
defendant or person may request a change in the conditions of 21581
confinement, and the trial court shall conduct a hearing on that 21582
request if six months or more have elapsed since the most recent 21583
hearing was conducted under this section. 21584

(D)(1) Except as otherwise provided in division (D)(2) of 21585
this section, when a defendant or person has been committed under 21586
section 2945.39 or 2945.40 of the Revised Code, at any time after 21587
evaluating the risks to public safety and the welfare of the 21588
defendant or person, the designee of the department of mental 21589
health or the managing officer of the institution or director of 21590
the facility or program to which the defendant or person is 21591
committed may recommend a termination of the defendant's or 21592
person's commitment or a change in the conditions of the 21593
defendant's or person's commitment. 21594

Except as otherwise provided in division (D)(2) of this 21595
section, if the designee of the department of mental health 21596
recommends on-grounds unsupervised movement, off-grounds 21597
supervised movement, or nonsecured status for the defendant or 21598
person or termination of the defendant's or person's commitment, 21599
the following provisions apply: 21600

(a) If the department's designee recommends on-grounds 21601
unsupervised movement or off-grounds supervised movement, the 21602

department's designee shall file with the trial court an 21603
application for approval of the movement and shall send a copy of 21604
the application to the prosecutor. Within fifteen days after 21605
receiving the application, the prosecutor may request a hearing on 21606
the application and, if a hearing is requested, shall so inform 21607
the department's designee. If the prosecutor does not request a 21608
hearing within the fifteen-day period, the trial court shall 21609
approve the application by entering its order approving the 21610
requested movement or, within five days after the expiration of 21611
the fifteen-day period, shall set a date for a hearing on the 21612
application. If the prosecutor requests a hearing on the 21613
application within the fifteen-day period, the trial court shall 21614
hold a hearing on the application within thirty days after the 21615
hearing is requested. If the trial court, within five days after 21616
the expiration of the fifteen-day period, sets a date for a 21617
hearing on the application, the trial court shall hold the hearing 21618
within thirty days after setting the hearing date. At least 21619
fifteen days before any hearing is held under this division, the 21620
trial court shall give the prosecutor written notice of the date, 21621
time, and place of the hearing. At the conclusion of each hearing 21622
conducted under this division, the trial court either shall 21623
approve or disapprove the application and shall enter its order 21624
accordingly. 21625

(b) If the department's designee recommends termination of 21626
the defendant's or person's commitment at any time or if the 21627
department's designee recommends the first of any nonsecured 21628
status for the defendant or person, the department's designee 21629
shall send written notice of this recommendation to the trial 21630
court and to the local forensic center. The local forensic center 21631
shall evaluate the committed defendant or person and, within 21632
thirty days after its receipt of the written notice, shall submit 21633
to the trial court and the department's designee a written report 21634
of the evaluation. The trial court shall provide a copy of the 21635

department's designee's written notice and of the local forensic 21636
center's written report to the prosecutor and to the counsel for 21637
the defendant or person. Upon the local forensic center's 21638
submission of the report to the trial court and the department's 21639
designee, all of the following apply: 21640

(i) If the forensic center disagrees with the recommendation 21641
of the department's designee, it shall inform the department's 21642
designee and the trial court of its decision and the reasons for 21643
the decision. The department's designee, after consideration of 21644
the forensic center's decision, shall either withdraw, proceed 21645
with, or modify and proceed with the recommendation. If the 21646
department's designee proceeds with, or modifies and proceeds 21647
with, the recommendation, the department's designee shall proceed 21648
in accordance with division (D)(1)(b)(iii) of this section. 21649

(ii) If the forensic center agrees with the recommendation of 21650
the department's designee, it shall inform the department's 21651
designee and the trial court of its decision and the reasons for 21652
the decision, and the department's designee shall proceed in 21653
accordance with division (D)(1)(b)(iii) of this section. 21654

(iii) If the forensic center disagrees with the 21655
recommendation of the department's designee and the department's 21656
designee proceeds with, or modifies and proceeds with, the 21657
recommendation or if the forensic center agrees with the 21658
recommendation of the department's designee, the department's 21659
designee shall work with community mental health agencies, 21660
programs, facilities, or boards of alcohol, drug addiction, and 21661
mental health services or community mental health boards to 21662
develop a plan to implement the recommendation. If the defendant 21663
or person is on medication, the plan shall include, but shall not 21664
be limited to, a system to monitor the defendant's or person's 21665
compliance with the prescribed medication treatment plan. The 21666
system shall include a schedule that clearly states when the 21667

defendant or person shall report for a medication compliance 21668
check. The medication compliance checks shall be based upon the 21669
effective duration of the prescribed medication, taking into 21670
account the route by which it is taken, and shall be scheduled at 21671
intervals sufficiently close together to detect a potential 21672
increase in mental illness symptoms that the medication is 21673
intended to prevent. 21674

The department's designee, after consultation with the board 21675
of alcohol, drug addiction, and mental health services or the 21676
community mental health board serving the area, shall send the 21677
recommendation and plan developed under division (D)(1)(b)(iii) of 21678
this section, in writing, to the trial court, the prosecutor, and 21679
the counsel for the committed defendant or person. The trial court 21680
shall conduct a hearing on the recommendation and plan developed 21681
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 21682
and (d) and (E) to (J) of this section apply regarding the 21683
hearing. 21684

(c) If the department's designee's recommendation is for 21685
nonsecured status or termination of commitment, the prosecutor may 21686
obtain an independent expert evaluation of the defendant's or 21687
person's mental condition, and the trial court may continue the 21688
hearing on the recommendation for a period of not more than thirty 21689
days to permit time for the evaluation. 21690

The prosecutor may introduce the evaluation report or present 21691
other evidence at the hearing in accordance with the Rules of 21692
Evidence. 21693

(d) The trial court shall schedule the hearing on a 21694
department's designee's recommendation for nonsecured status or 21695
termination of commitment and shall give reasonable notice to the 21696
prosecutor and the counsel for the defendant or person. Unless 21697
continued for independent evaluation at the prosecutor's request 21698
or for other good cause, the hearing shall be held within thirty 21699

days after the trial court's receipt of the recommendation and 21700
plan. 21701

(2)(a) Division (D)(1) of this section does not apply to 21702
on-grounds unsupervised movement of a defendant or person who has 21703
been committed under section 2945.39 or 2945.40 of the Revised 21704
Code, who is a mentally retarded person subject to 21705
institutionalization by court order, and who is being provided 21706
residential habilitation, care, and treatment in a facility 21707
operated by the department of developmental disabilities. 21708

(b) If, pursuant to section 2945.39 of the Revised Code, the 21709
trial court commits a defendant who is found incompetent to stand 21710
trial and who is a mentally retarded person subject to 21711
institutionalization by court order, if the defendant is being 21712
provided residential habilitation, care, and treatment in a 21713
facility operated by the department of developmental disabilities, 21714
if an individual who is conducting a survey for the department of 21715
health to determine the facility's compliance with the 21716
certification requirements of the medicaid program under Chapter 21717
5111. of the Revised Code and Title XIX of the "Social Security 21718
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the 21719
defendant's receipt of the residential habilitation, care, and 21720
treatment in the facility as being inappropriate under the 21721
certification requirements, if the defendant's receipt of the 21722
residential habilitation, care, and treatment in the facility 21723
potentially jeopardizes the facility's continued receipt of 21724
federal medicaid moneys, and if as a result of the citation the 21725
chief clinical officer of the facility determines that the 21726
conditions of the defendant's commitment should be changed, the 21727
department of developmental disabilities may cause the defendant 21728
to be removed from the particular facility and, after evaluating 21729
the risks to public safety and the welfare of the defendant and 21730
after determining whether another type of placement is consistent 21731

with the certification requirements, may place the defendant in 21732
another facility that the department selects as an appropriate 21733
facility for the defendant's continued receipt of residential 21734
habilitation, care, and treatment and that is a no less secure 21735
setting than the facility in which the defendant had been placed 21736
at the time of the citation. Within three days after the 21737
defendant's removal and alternative placement under the 21738
circumstances described in division (D)(2)(b) of this section, the 21739
department of developmental disabilities shall notify the trial 21740
court and the prosecutor in writing of the removal and alternative 21741
placement. 21742

The trial court shall set a date for a hearing on the removal 21743
and alternative placement, and the hearing shall be held within 21744
twenty-one days after the trial court's receipt of the notice from 21745
the department of developmental disabilities. At least ten days 21746
before the hearing is held, the trial court shall give the 21747
prosecutor, the department of developmental disabilities, and the 21748
counsel for the defendant written notice of the date, time, and 21749
place of the hearing. At the hearing, the trial court shall 21750
consider the citation issued by the individual who conducted the 21751
survey for the department of health to be prima-facie evidence of 21752
the fact that the defendant's commitment to the particular 21753
facility was inappropriate under the certification requirements of 21754
the medicaid program under Chapter 5111. of the Revised Code and 21755
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 21756
U.S.C.A. 301, as amended, and potentially jeopardizes the 21757
particular facility's continued receipt of federal medicaid 21758
moneys. At the conclusion of the hearing, the trial court may 21759
approve or disapprove the defendant's removal and alternative 21760
placement. If the trial court approves the defendant's removal and 21761
alternative placement, the department of developmental 21762
disabilities may continue the defendant's alternative placement. 21763
If the trial court disapproves the defendant's removal and 21764

alternative placement, it shall enter an order modifying the 21765
defendant's removal and alternative placement, but that order 21766
shall not require the department of developmental disabilities to 21767
replace the defendant for purposes of continued residential 21768
habilitation, care, and treatment in the facility associated with 21769
the citation issued by the individual who conducted the survey for 21770
the department of health. 21771

(E) In making a determination under this section regarding 21772
nonsecured status or termination of commitment, the trial court 21773
shall consider all relevant factors, including, but not limited 21774
to, all of the following: 21775

(1) Whether, in the trial court's view, the defendant or 21776
person currently represents a substantial risk of physical harm to 21777
the defendant or person or others; 21778

(2) Psychiatric and medical testimony as to the current 21779
mental and physical condition of the defendant or person; 21780

(3) Whether the defendant or person has insight into the 21781
~~defendant's~~ defendant's or person's condition so that the 21782
defendant or person will continue treatment as prescribed or seek 21783
professional assistance as needed; 21784

(4) The grounds upon which the state relies for the proposed 21785
commitment; 21786

(5) Any past history that is relevant to establish the 21787
defendant's or person's degree of conformity to the laws, rules, 21788
regulations, and values of society; 21789

(6) If there is evidence that the defendant's or person's 21790
mental illness is in a state of remission, the medically suggested 21791
cause and degree of the remission and the probability that the 21792
defendant or person will continue treatment to maintain the 21793
remissive state of the defendant's or person's illness should the 21794
defendant's or person's commitment conditions be altered. 21795

(F) At any hearing held pursuant to division (C) or (D)(1) or 21796
(2) of this section, the defendant or the person shall have all 21797
the rights of a defendant or person at a commitment hearing as 21798
described in section 2945.40 of the Revised Code. 21799

(G) In a hearing held pursuant to division (C) or (D)(1) of 21800
this section, the prosecutor has the burden of proof as follows: 21801

(1) For a recommendation of termination of commitment, to 21802
show by clear and convincing evidence that the defendant or person 21803
remains a mentally ill person subject to hospitalization by court 21804
order or a mentally retarded person subject to 21805
institutionalization by court order; 21806

(2) For a recommendation for a change in the conditions of 21807
the commitment to a less restrictive status, to show by clear and 21808
convincing evidence that the proposed change represents a threat 21809
to public safety or a threat to the safety of any person. 21810

(H) In a hearing held pursuant to division (C) or (D)(1) or 21811
(2) of this section, the prosecutor shall represent the state or 21812
the public interest. 21813

(I) At the conclusion of a hearing conducted under division 21814
(D)(1) of this section regarding a recommendation from the 21815
designee of the department of mental health, managing officer of 21816
the institution, or director of a facility or program, the trial 21817
court may approve, disapprove, or modify the recommendation and 21818
shall enter an order accordingly. 21819

(J)(1) A defendant or person who has been committed pursuant 21820
to section 2945.39 or 2945.40 of the Revised Code continues to be 21821
under the jurisdiction of the trial court until the final 21822
termination of the commitment. For purposes of division (J) of 21823
this section, the final termination of a commitment occurs upon 21824
the earlier of one of the following: 21825

(a) The defendant or person no longer is a mentally ill 21826

person subject to hospitalization by court order or a mentally 21827
retarded person subject to institutionalization by court order, as 21828
determined by the trial court; 21829

(b) The expiration of the maximum prison term or term of 21830
imprisonment that the defendant or person could have received if 21831
the defendant or person had been convicted of the most serious 21832
offense with which the defendant or person is charged or in 21833
relation to which the defendant or person was found not guilty by 21834
reason of insanity; 21835

(c) The trial court enters an order terminating the 21836
commitment under the circumstances described in division 21837
(J)(2)(a)(ii) of this section. 21838

(2)(a) If a defendant is found incompetent to stand trial and 21839
committed pursuant to section 2945.39 of the Revised Code, if 21840
neither of the circumstances described in divisions (J)(1)(a) and 21841
(b) of this section applies to that defendant, and if a report 21842
filed with the trial court pursuant to division (C) of this 21843
section indicates that the defendant presently is competent to 21844
stand trial or if, at any other time during the period of the 21845
defendant's commitment, the prosecutor, the counsel for the 21846
defendant, or the designee of the department of mental health or 21847
the managing officer of the institution or director of the 21848
facility or program to which the defendant is committed files an 21849
application with the trial court alleging that the defendant 21850
presently is competent to stand trial and requesting a hearing on 21851
the competency issue or the trial court otherwise has reasonable 21852
cause to believe that the defendant presently is competent to 21853
stand trial and determines on its own motion to hold a hearing on 21854
the competency issue, the trial court shall schedule a hearing on 21855
the competency of the defendant to stand trial, shall give the 21856
prosecutor, the counsel for the defendant, and the department's 21857
designee or the managing officer of the institution or the 21858

director of the facility to which the defendant is committed 21859
notice of the date, time, and place of the hearing at least 21860
fifteen days before the hearing, and shall conduct the hearing 21861
within thirty days of the filing of the application or of its own 21862
motion. If, at the conclusion of the hearing, the trial court 21863
determines that the defendant presently is capable of 21864
understanding the nature and objective of the proceedings against 21865
the defendant and of assisting in the defendant's defense, the 21866
trial court shall order that the defendant is competent to stand 21867
trial and shall be proceeded against as provided by law with 21868
respect to the applicable offenses described in division (C)(1) of 21869
section 2945.38 of the Revised Code and shall enter whichever of 21870
the following additional orders is appropriate: 21871

(i) If the trial court determines that the defendant remains 21872
a mentally ill person subject to hospitalization by court order or 21873
a mentally retarded person subject to institutionalization by 21874
court order, the trial court shall order that the defendant's 21875
commitment to the department of mental health or to an institution 21876
~~or, facility, or program~~ for the treatment of ~~developmental~~ 21877
~~disabilities~~ mental retardation be continued during the pendency 21878
of the trial on the applicable offenses described in division 21879
(C)(1) of section 2945.38 of the Revised Code. 21880

(ii) If the trial court determines that the defendant no 21881
longer is a mentally ill person subject to hospitalization by 21882
court order or a mentally retarded person subject to 21883
institutionalization by court order, the trial court shall order 21884
that the defendant's commitment to the department of mental health 21885
or to an institution ~~or, facility, or program~~ for the treatment of 21886
~~developmental disabilities~~ mental retardation shall not be 21887
continued during the pendency of the trial on the applicable 21888
offenses described in division (C)(1) of section 2945.38 of the 21889
Revised Code. This order shall be a final termination of the 21890

commitment for purposes of division (J)(1)(c) of this section. 21891

(b) If, at the conclusion of the hearing described in 21892
division (J)(2)(a) of this section, the trial court determines 21893
that the defendant remains incapable of understanding the nature 21894
and objective of the proceedings against the defendant or of 21895
assisting in the defendant's defense, the trial court shall order 21896
that the defendant continues to be incompetent to stand trial, 21897
that the defendant's commitment to the department of mental health 21898
or to an institution ~~or~~, facility, or program for the treatment of 21899
~~developmental disabilities~~ mental retardation shall be continued, 21900
and that the defendant remains subject to the jurisdiction of the 21901
trial court pursuant to that commitment, and to the provisions of 21902
this section, until the final termination of the commitment as 21903
described in division (J)(1) of this section. 21904

Sec. 2953.32. (A)(1) Except as provided in section 2953.61 of 21905
the Revised Code, a first offender may apply to the sentencing 21906
court if convicted in this state, or to a court of common pleas if 21907
convicted in another state or in a federal court, for the sealing 21908
of the conviction record. Application may be made at the 21909
expiration of three years after the offender's final discharge if 21910
convicted of a felony, or at the expiration of one year after the 21911
offender's final discharge if convicted of a misdemeanor. 21912

(2) Any person who has been arrested for any misdemeanor 21913
offense and who has effected a bail forfeiture may apply to the 21914
court in which the misdemeanor criminal case was pending when bail 21915
was forfeited for the sealing of the record of the case. Except as 21916
provided in section 2953.61 of the Revised Code, the application 21917
may be filed at any time after the expiration of one year from the 21918
date on which the bail forfeiture was entered upon the minutes of 21919
the court or the journal, whichever entry occurs first. 21920

(B) Upon the filing of an application under this section, the 21921

court shall set a date for a hearing and shall notify the 21922
prosecutor for the case of the hearing on the application. The 21923
prosecutor may object to the granting of the application by filing 21924
an objection with the court prior to the date set for the hearing. 21925
The prosecutor shall specify in the objection the reasons for 21926
believing a denial of the application is justified. The court 21927
shall direct its regular probation officer, a state probation 21928
officer, or the department of probation of the county in which the 21929
applicant resides to make inquiries and written reports as the 21930
court requires concerning the applicant. 21931

(C)(1) The court shall do each of the following: 21932

(a) Determine whether the applicant is a first offender or 21933
whether the forfeiture of bail was agreed to by the applicant and 21934
the prosecutor in the case. If the applicant applies as a first 21935
offender pursuant to division (A)(1) of this section and has two 21936
or three convictions that result from the same indictment, 21937
information, or complaint, from the same plea of guilty, or from 21938
the same official proceeding, and result from related criminal 21939
acts that were committed within a three-month period but do not 21940
result from the same act or from offenses committed at the same 21941
time, in making its determination under this division, the court 21942
initially shall determine whether it is not in the public interest 21943
for the two or three convictions to be counted as one conviction. 21944
If the court determines that it is not in the public interest for 21945
the two or three convictions to be counted as one conviction, the 21946
court shall determine that the applicant is not a first offender; 21947
if the court does not make that determination, the court shall 21948
determine that the offender is a first offender. 21949

(b) Determine whether criminal proceedings are pending 21950
against the applicant; 21951

(c) If the applicant is a first offender who applies pursuant 21952
to division (A)(1) of this section, determine whether the 21953

applicant has been rehabilitated to the satisfaction of the court; 21954

(d) If the prosecutor has filed an objection in accordance 21955
with division (B) of this section, consider the reasons against 21956
granting the application specified by the prosecutor in the 21957
objection; 21958

(e) Weigh the interests of the applicant in having the 21959
records pertaining to the applicant's conviction sealed against 21960
the legitimate needs, if any, of the government to maintain those 21961
records. 21962

(2) If the court determines, after complying with division 21963
(C)(1) of this section, that the applicant is a first offender or 21964
the subject of a bail forfeiture, that no criminal proceeding is 21965
pending against the applicant, and that the interests of the 21966
applicant in having the records pertaining to the applicant's 21967
conviction or bail forfeiture sealed are not outweighed by any 21968
legitimate governmental needs to maintain those records, and that 21969
the rehabilitation of an applicant who is a first offender 21970
applying pursuant to division (A)(1) of this section has been 21971
attained to the satisfaction of the court, the court, except as 21972
provided in divisions (G) and (H) of this section, shall order all 21973
official records pertaining to the case sealed and, except as 21974
provided in division (F) of this section, all index references to 21975
the case deleted and, in the case of bail forfeitures, shall 21976
dismiss the charges in the case. The proceedings in the case shall 21977
be considered not to have occurred and the conviction or bail 21978
forfeiture of the person who is the subject of the proceedings 21979
shall be sealed, except that upon conviction of a subsequent 21980
offense, the sealed record of prior conviction or bail forfeiture 21981
may be considered by the court in determining the sentence or 21982
other appropriate disposition, including the relief provided for 21983
in sections 2953.31 to 2953.33 of the Revised Code. 21984

(3) Upon the filing of an application under this section, the 21985

applicant, unless indigent, shall pay a fee of fifty dollars. The 21986
court shall pay thirty dollars of the fee into the state treasury. 21987
It shall pay twenty dollars of the fee into the county general 21988
revenue fund if the sealed conviction or bail forfeiture was 21989
pursuant to a state statute, or into the general revenue fund of 21990
the municipal corporation involved if the sealed conviction or 21991
bail forfeiture was pursuant to a municipal ordinance. 21992

(D) Inspection of the sealed records included in the order 21993
may be made only by the following persons or for the following 21994
purposes: 21995

(1) By a law enforcement officer or prosecutor, or the 21996
assistants of either, to determine whether the nature and 21997
character of the offense with which a person is to be charged 21998
would be affected by virtue of the person's previously having been 21999
convicted of a crime; 22000

(2) By the parole or probation officer of the person who is 22001
the subject of the records, for the exclusive use of the officer 22002
in supervising the person while on parole or under a community 22003
control sanction or a post-release control sanction, and in making 22004
inquiries and written reports as requested by the court or adult 22005
parole authority; 22006

(3) Upon application by the person who is the subject of the 22007
records, by the persons named in the application; 22008

(4) By a law enforcement officer who was involved in the 22009
case, for use in the officer's defense of a civil action arising 22010
out of the officer's involvement in that case; 22011

(5) By a prosecuting attorney or the prosecuting attorney's 22012
assistants, to determine a defendant's eligibility to enter a 22013
pre-trial diversion program established pursuant to section 22014
2935.36 of the Revised Code; 22015

(6) By any law enforcement agency or any authorized employee 22016

of a law enforcement agency or by the department of rehabilitation 22017
and correction as part of a background investigation of a person 22018
who applies for employment with the agency as a law enforcement 22019
officer or with the department as a corrections officer; 22020

(7) By any law enforcement agency or any authorized employee 22021
of a law enforcement agency, for the purposes set forth in, and in 22022
the manner provided in, section 2953.321 of the Revised Code; 22023

(8) By the bureau of criminal identification and 22024
investigation or any authorized employee of the bureau for the 22025
purpose of providing information to a board or person pursuant to 22026
division (F) or (G) of section 109.57 of the Revised Code; 22027

(9) By the bureau of criminal identification and 22028
investigation or any authorized employee of the bureau for the 22029
purpose of performing a criminal history records check on a person 22030
to whom a certificate as prescribed in section 109.77 of the 22031
Revised Code is to be awarded; 22032

(10) By the bureau of criminal identification and 22033
investigation or any authorized employee of the bureau for the 22034
purpose of conducting a criminal records check of an individual 22035
pursuant to division (B) of section 109.572 of the Revised Code 22036
that was requested pursuant to any of the sections identified in 22037
division (B)(1) of that section; 22038

(11) By the bureau of criminal identification and 22039
investigation, an authorized employee of the bureau, a sheriff, or 22040
an authorized employee of a sheriff in connection with a criminal 22041
records check described in section 311.41 of the Revised Code; 22042

(12) By the attorney general or an authorized employee of the 22043
attorney general or a court for purposes of determining a person's 22044
classification pursuant to Chapter 2950. of the Revised Code; 22045

(13) By a prosecuting attorney or the attorney general, or 22046
the assistants of either, for purposes of defending a civil action 22047

brought pursuant to division (B)(1) of section 2743.48 of the 22048
Revised Code. 22049

When the nature and character of the offense with which a 22050
person is to be charged would be affected by the information, it 22051
may be used for the purpose of charging the person with an 22052
offense. 22053

(E) In any criminal proceeding, proof of any otherwise 22054
admissible prior conviction may be introduced and proved, 22055
notwithstanding the fact that for any such prior conviction an 22056
order of sealing previously was issued pursuant to sections 22057
2953.31 to 2953.36 of the Revised Code. 22058

(F) The person or governmental agency, office, or department 22059
that maintains sealed records pertaining to convictions or bail 22060
forfeitures that have been sealed pursuant to this section may 22061
maintain a manual or computerized index to the sealed records. The 22062
index shall contain only the name of, and alphanumeric identifiers 22063
that relate to, the persons who are the subject of the sealed 22064
records, the word "sealed," and the name of the person, agency, 22065
office, or department that has custody of the sealed records, and 22066
shall not contain the name of the crime committed. The index shall 22067
be made available by the person who has custody of the sealed 22068
records only for the purposes set forth in divisions (C), (D), and 22069
(E) of this section. 22070

(G) Notwithstanding any provision of this section or section 22071
2953.33 of the Revised Code that requires otherwise, a board of 22072
education of a city, local, exempted village, or joint vocational 22073
school district that maintains records of an individual who has 22074
been permanently excluded under sections 3301.121 and 3313.662 of 22075
the Revised Code is permitted to maintain records regarding a 22076
conviction that was used as the basis for the individual's 22077
permanent exclusion, regardless of a court order to seal the 22078
record. An order issued under this section to seal the record of a 22079

conviction does not revoke the adjudication order of the 22080
superintendent of public instruction to permanently exclude the 22081
individual who is the subject of the sealing order. An order 22082
issued under this section to seal the record of a conviction of an 22083
individual may be presented to a district superintendent as 22084
evidence to support the contention that the superintendent should 22085
recommend that the permanent exclusion of the individual who is 22086
the subject of the sealing order be revoked. Except as otherwise 22087
authorized by this division and sections 3301.121 and 3313.662 of 22088
the Revised Code, any school employee in possession of or having 22089
access to the sealed conviction records of an individual that were 22090
the basis of a permanent exclusion of the individual is subject to 22091
section 2953.35 of the Revised Code. 22092

(H) For purposes of sections 2953.31 to 2953.36 of the 22093
Revised Code, DNA records collected in the DNA database and 22094
fingerprints filed for record by the superintendent of the bureau 22095
of criminal identification and investigation shall not be sealed 22096
unless the superintendent receives a certified copy of a final 22097
court order establishing that the offender's conviction has been 22098
overturned. For purposes of this section, a court order is not 22099
"final" if time remains for an appeal or application for 22100
discretionary review with respect to the order. 22101

Sec. 2961.22. (A)(1) Any prisoner serving a prison term in a 22102
state correctional institution who satisfies all of the following 22103
is eligible to apply to the department of rehabilitation and 22104
correction at a time specified in division (A)(2) of this section 22105
and in accordance with division (D) of this section for a 22106
certificate of achievement and employability: 22107

(a) The prisoner has satisfactorily completed one or more 22108
in-prison vocational programs approved by rule by the department 22109
of rehabilitation and correction. 22110

(b) The prisoner has demonstrated exemplary performance as 22111
determined by completion of one or more cognitive or behavioral 22112
improvement programs approved by rule by the department while 22113
incarcerated in a state correctional institution, while under 22114
supervision, or during both periods of time. 22115

(c) The prisoner has completed community service hours. 22116

(d) The prisoner shows other evidence of achievement and 22117
rehabilitation while under the jurisdiction of the department. 22118

(2) An eligible prisoner may apply to the department of 22119
rehabilitation and correction under division (A)(1) of this 22120
section for a certificate of achievement and employability no 22121
earlier than one year prior to the date scheduled for the release 22122
of the prisoner from department custody and no later than the date 22123
of release of the prisoner. 22124

(B)(1) Any prisoner who has been released from a state 22125
correctional institution, who is under supervision on parole or 22126
under a post-release control sanction, and who satisfies all of 22127
the criteria set forth in division (A)(1) of this section is 22128
eligible to apply to the adult parole authority at a time 22129
specified in division (B)(2) of this section and in accordance 22130
with division (D) of this section for a certificate of achievement 22131
and employability. 22132

(2) An eligible prisoner may apply to the adult parole 22133
authority under division (B)(1) of this section for a certificate 22134
of achievement and employability at any time while the prisoner is 22135
under supervision on parole or under a post-release control 22136
sanction. 22137

(C)(1) An eligible prisoner may apply to the department of 22138
rehabilitation and correction or to the adult parole authority at 22139
a time specified in division (A) or (B) of this section, whichever 22140
is applicable, for a certificate of achievement and employability 22141

that grants the prisoner relief from one or more mandatory civil 22142
impacts that would affect a potential job within a field in which 22143
the prisoner trained as part of the prisoner's in-prison 22144
vocational program. The prisoner shall specify the mandatory civil 22145
impacts from which the prisoner is requesting relief under the 22146
certificate. Upon application by a prisoner in accordance with 22147
this division, if the mandatory civil impact of any licensing 22148
agency would be affected by the issuance of the certificate to the 22149
prisoner, the department or authority shall notify the licensing 22150
agency of the filing of the application, provide the licensing 22151
agency with a copy of the application and all evidence that the 22152
department, authority, or court has regarding the prisoner, and 22153
afford the licensing agency with an opportunity to object in 22154
writing to the issuance of the certificate to the prisoner. 22155

(2) Upon application by a prisoner in accordance with 22156
division (C)(1) of this section, the department of rehabilitation 22157
and correction or the adult parole authority, whichever is 22158
applicable, shall consider the application and all objections to 22159
the issuance of a certificate of achievement and employability to 22160
the prisoner, if any, that were made by a licensing agency under 22161
division (C)(1) of this section. If the department or authority 22162
determines that the prisoner is an eligible prisoner, that the 22163
application was filed at a time specified in division (B) of this 22164
section, and that any licensing agency objections to the issuance 22165
of the certificate to the prisoner are not sufficient to deny the 22166
issuance of the certificate to the prisoner, subject to division 22167
(C)(3) of this section, the department or authority shall issue 22168
the prisoner a certificate of achievement and employability that 22169
grants the prisoner relief from the mandatory civil impacts that 22170
are specified in the prisoner's application and that would affect 22171
a potential job within a field in which the prisoner trained as 22172
part of the prisoner's in-prison vocational program. 22173

(3) The mandatory civil impacts identified in division (A)(1) 22174
of section 2961.01 and in division (B) of section 2961.02 of the 22175
Revised Code shall not be affected by any certificate of 22176
achievement and employability issued under this section. No 22177
certificate of achievement and employability issued to a prisoner 22178
under this section grants the prisoner relief from the mandatory 22179
civil impacts identified in division (A)(1) of section 2961.01 and 22180
in division (B) of section 2961.02 of the Revised Code. 22181

(E) The department of rehabilitation and correction shall 22182
adopt rules that define in-prison vocational programs and 22183
cognitive or behavioral improvement programs that a prisoner may 22184
complete to satisfy the criteria described in divisions (A)(1)(a) 22185
and (b) of this section. 22186

(F) The department of rehabilitation and correction and the 22187
adult parole authority shall not be liable for any claim for 22188
damages arising from the department's or authority's issuance, 22189
denial, or revocation of a certificate of achievement and 22190
employability or for the department's or authority's failure to 22191
revoke a certificate of achievement and employability under the 22192
circumstances described in section 2961.24 of the Revised Code. 22193

Sec. 2967.03. The adult parole authority may exercise its 22194
functions and duties in relation to the pardon, commutation of 22195
sentence, or reprieve of a convict upon direction of the governor 22196
or upon its own initiative. It may exercise its functions and 22197
duties in relation to the parole of a prisoner who is eligible for 22198
parole upon the initiative of the head of the institution in which 22199
the prisoner is confined or upon its own initiative. When a 22200
prisoner becomes eligible for parole, the head of the institution 22201
in which the prisoner is confined shall notify the authority in 22202
the manner prescribed by the authority. The authority may 22203
investigate and examine, or cause the investigation and 22204

examination of, prisoners confined in state correctional 22205
institutions concerning their conduct in the institutions, their 22206
mental and moral qualities and characteristics, their knowledge of 22207
a trade or profession, their former means of livelihood, their 22208
family relationships, and any other matters affecting their 22209
fitness to be at liberty without being a threat to society. 22210

The authority may recommend to the governor the pardon, 22211
commutation of sentence, ~~medical release~~, or reprieve of any 22212
convict or prisoner or grant a parole to any prisoner for whom 22213
parole is authorized, if in its judgment there is reasonable 22214
ground to believe that granting a pardon, commutation, ~~medical~~ 22215
~~release~~, or reprieve to the convict or paroling the prisoner would 22216
further the interests of justice and be consistent with the 22217
welfare and security of society. However, the authority shall not 22218
recommend a pardon, or commutation of sentence, ~~or medical release~~ 22219
~~of~~, or grant a parole to, any convict or prisoner until the 22220
authority has complied with the applicable notice requirements of 22221
sections 2930.16 and 2967.12 of the Revised Code and until it has 22222
considered any statement made by a victim or a victim's 22223
representative that is relevant to the convict's or prisoner's 22224
case and that was sent to the authority pursuant to section 22225
2930.17 of the Revised Code, any other statement made by a victim 22226
or a victim's representative that is relevant to the convict's or 22227
prisoner's case and that was received by the authority after it 22228
provided notice of the pendency of the action under sections 22229
2930.16 and 2967.12 of the Revised Code, and any written statement 22230
of any person submitted to the court pursuant to division (G) of 22231
section 2967.12 of the Revised Code. If a victim, victim's 22232
representative, or the victim's spouse, parent, sibling, or child 22233
appears at a full board hearing of the parole board and gives 22234
testimony as authorized by section 5149.101 of the Revised Code, 22235
the authority shall consider the testimony in determining whether 22236
to grant a parole. The trial judge and prosecuting attorney of the 22237

trial court in which a person was convicted shall furnish to the 22238
authority, at the request of the authority, a summarized statement 22239
of the facts proved at the trial and of all other facts having 22240
reference to the propriety of recommending a pardon, commutation, 22241
or medical release, or granting a parole, together with a 22242
recommendation for or against a pardon, commutation, medical 22243
release, or parole, and the reasons for the recommendation. The 22244
trial judge, the prosecuting attorney, specified law enforcement 22245
agency members, and a representative of the prisoner may appear at 22246
a full board hearing of the parole board and give testimony in 22247
regard to the grant of a parole to the prisoner as authorized by 22248
section 5149.101 of the Revised Code. All state and local 22249
officials shall furnish information to the authority, when so 22250
requested by it in the performance of its duties. 22251

The adult parole authority shall exercise its functions and 22252
duties in relation to the release of prisoners who are serving a 22253
stated prison term in accordance with section 2967.28 of the 22254
Revised Code. 22255

Sec. 2967.05. (A) As used in this section: 22256

(1) "Imminent danger of death" means that the inmate has a 22257
medically diagnosable condition that will cause death to occur 22258
within a short period of time. 22259

As used in division (A)(1) of this section, "within a short 22260
period of time" means generally within six months. 22261

(2)(a) "Medically incapacitated" means any diagnosable 22262
medical condition, including mental dementia and severe, permanent 22263
medical or cognitive disability, that prevents the inmate from 22264
completing activities of daily living without significant 22265
assistance, that incapacitates the inmate to the extent that 22266
institutional confinement does not offer additional restrictions, 22267
that is likely to continue throughout the entire period of parole, 22268

and that is unlikely to improve noticeably. 22269

(b) "Medically incapacitated" does not include conditions 22270
related solely to mental illness unless the mental illness is 22271
accompanied by injury, disease, or organic defect. 22272

(3)(a) "Terminal illness" means a condition that satisfies 22273
all of the following criteria: 22274

(i) The condition is irreversible and incurable and is caused 22275
by disease, illness, or injury from which the inmate is unlikely 22276
to recover. 22277

(ii) In accordance with reasonable medical standards and a 22278
reasonable degree of medical certainty, the condition is likely to 22279
cause death to the inmate within twelve months. 22280

(iii) Institutional confinement of the inmate does not offer 22281
additional protections for public safety or against the inmate's 22282
risk to reoffend. 22283

(b) The department of rehabilitation and correction shall 22284
adopt rules pursuant to Chapter 119. of the Revised Code to 22285
implement the definition of "terminal illness" in division 22286
(A)(3)(a) of this section. 22287

(B) Upon the recommendation of the director of rehabilitation 22288
and correction, accompanied by a certificate of the attending 22289
physician that an inmate is terminally ill, medically 22290
incapacitated, or in imminent danger of death, the governor may 22291
order the inmate's release as if on parole, reserving the right to 22292
return the inmate to the institution pursuant to this section. If, 22293
subsequent to the inmate's release, the inmate's health improves 22294
so that the inmate is no longer terminally ill, medically 22295
incapacitated, or in imminent danger of death, the inmate shall be 22296
returned, by order of the governor, to the institution from which 22297
the inmate was released. If the inmate violates any rules or 22298
conditions applicable to the inmate, the inmate may be returned to 22299

an institution under the control of the department of 22300
rehabilitation and correction. The governor may direct the adult 22301
parole authority to investigate or cause to be investigated the 22302
inmate and make a recommendation ~~in the manner set forth in~~ 22303
~~section 2967.03 of the Revised Code.~~ An inmate released under this 22304
section shall be subject to supervision by the adult parole 22305
authority in accordance with any recommendation of the adult 22306
parole authority that is approved by the governor. The adult 22307
parole authority shall adopt rules pursuant to section 119.03 of 22308
the Revised Code to establish the procedure for medical release of 22309
an inmate when an inmate is terminally ill, medically 22310
incapacitated, or in imminent danger of death. 22311

(C) No inmate is eligible for release under this section if 22312
the inmate is serving a death sentence, a sentence of life without 22313
parole, a sentence under Chapter 2971. of the Revised Code for a 22314
felony of the first or second degree, a sentence for aggravated 22315
murder or murder, or a mandatory prison term for an offense of 22316
violence or any specification described in Chapter 2941. of the 22317
Revised Code. 22318

Sec. 2967.14. (A) The department of rehabilitation and 22319
correction or the adult parole authority may require or allow a 22320
parolee, a releasee, or a prisoner otherwise released from a state 22321
correctional institution to reside in a halfway house or other 22322
suitable community residential center that has been licensed by 22323
the division of parole and community services pursuant to division 22324
(C) of this section during a part or for the entire period of the 22325
offender's or parolee's conditional release or of the releasee's 22326
term of post-release control. The court of common pleas that 22327
placed an offender under a sanction consisting of a term in a 22328
halfway house or in an alternative residential sanction may 22329
require the offender to reside in a halfway house or other 22330
suitable community residential center that is designated by the 22331

court and that has been licensed by the division pursuant to 22332
division (C) of this section during a part or for the entire 22333
period of the offender's residential sanction. 22334

(B) The division of parole and community services may 22335
negotiate and enter into agreements with any public or private 22336
agency or a department or political subdivision of the state that 22337
operates a halfway house, reentry center, or community residential 22338
center that has been licensed by the division pursuant to division 22339
(C) of this section. An agreement under this division shall 22340
provide for the purchase of beds, shall set limits of supervision 22341
and levels of occupancy, and shall determine the scope of services 22342
for all eligible offenders, including those subject to a 22343
residential sanction, as defined in rules adopted by the director 22344
of rehabilitation and correction in accordance with Chapter 119. 22345
of the Revised Code, or those released from prison without 22346
supervision. The payments for beds and services shall not exceed 22347
the total operating costs of the halfway house, reentry center, or 22348
community residential center during the term of an agreement. The 22349
director of rehabilitation and correction shall adopt rules in 22350
accordance with Chapter 119. of the Revised Code for determining 22351
includable and excludable costs and income to be used in computing 22352
the agency's average daily per capita costs with its facility at 22353
full occupancy. 22354

The ~~department~~ director of rehabilitation and correction ~~may~~ 22355
shall adopt rules providing for the use of no more than ~~ten~~ 22356
fifteen per cent of the amount appropriated to the department each 22357
fiscal year for the halfway house, reentry center, and community 22358
residential center program to pay for contracts with licensed 22359
halfway houses for nonresidential services for offenders under the 22360
supervision of the adult parole authority, including but not 22361
limited to, offenders supervised pursuant to an agreement entered 22362
into by the adult parole authority and a court of common pleas 22363

under section 2301.32 of the Revised Code. The nonresidential 22364
services may include, but are not limited to, treatment for 22365
substance abuse, mental health counseling, counseling for sex 22366
offenders, ~~and~~ electronic monitoring services, aftercare, and 22367
other nonresidential services that the director identifies by 22368
rule. 22369

(C) The division of parole and community services may license 22370
a halfway house, reentry center, or community residential center 22371
as a suitable facility for the care and treatment of adult 22372
offenders, including offenders sentenced under section 2929.16 or 22373
2929.26 of the Revised Code, only if the halfway house, reentry 22374
center, or community residential center complies with the 22375
standards that the division adopts in accordance with Chapter 119. 22376
of the Revised Code for the licensure of halfway houses, reentry 22377
centers, and community residential centers. The division shall 22378
annually inspect each licensed halfway house, licensed reentry 22379
center, and licensed community residential center to determine if 22380
it is in compliance with the licensure standards. 22381

Sec. 2967.19. (A) As used in this section: 22382

(1) "Deadly weapon" and "dangerous ordnance" have the same 22383
meanings as in section 2923.11 of the Revised Code. 22384

(2) "Disqualifying prison term" means any of the following: 22385

(a) A prison term imposed for aggravated murder, murder, 22386
voluntary manslaughter, involuntary manslaughter, felonious 22387
assault, kidnapping, rape, aggravated arson, aggravated burglary, 22388
or aggravated robbery; 22389

(b) A prison term imposed for complicity in, an attempt to 22390
commit, or conspiracy to commit any offense listed in division 22391
(A)(2)(a) of this section; 22392

(c) A prison term of life imprisonment, including any term of 22393

| | |
|---|--|
| life imprisonment that has parole eligibility; | 22394 |
| (d) A prison term imposed for any felony other than carrying a concealed weapon an essential element of which is any conduct or failure to act expressly involving any deadly weapon or dangerous ordnance; | 22395 22396 22397 22398 |
| (e) A prison term imposed for any violation of section 2925.03 of the Revised Code that is a felony of the first or second degree; | 22399 22400 22401 |
| (f) A prison term imposed for engaging in a pattern of corrupt activity in violation of section 2923.32 of the Revised Code; | 22402 22403 22404 |
| (g) A prison term imposed pursuant to section 2971.03 of the Revised Code; | 22405 22406 |
| (h) A prison term imposed for any sexually oriented offense. | 22407 |
| (3) "Eligible prison term" means any prison term that is not a disqualifying prison term and is not a restricting prison term. | 22408 22409 |
| (4) "Restricting prison term" means any of the following: | 22410 |
| (a) A mandatory prison term imposed under division (D) (B)(1)(a), (D) (B)(1)(c), (D) (B)(1)(f), (D) (B)(1)(g), (D) (B)(2), or (D) (B)(7) of section 2929.14 of the Revised Code for a specification of the type described in that division; | 22411 22412 22413 22414 |
| (b) In the case of an offender who has been sentenced to a mandatory prison term for a specification of the type described in division (A)(4)(a) of this section, the prison term imposed for the felony offense for which the specification was stated at the end of the body of the indictment, count in the indictment, or information charging the offense; | 22415 22416 22417 22418 22419 22420 |
| (c) A prison term imposed for trafficking in persons; | 22421 |
| (d) A prison term imposed for any offense that is described in division (A)(4)(d)(i) of this section if division (A)(4)(d)(ii) | 22422 22423 |

of this section applies to the offender: 22424

(i) The offense is a felony of the first or second degree 22425
that is an offense of violence and that is not described in 22426
division (A)(2)(a) or (b) of this section, an attempt to commit a 22427
felony of the first or second degree that is an offense of 22428
violence and that is not described in division (A)(2)(a) or (b) of 22429
this section if the attempt is a felony of the first or second 22430
degree, or an offense under an existing or former law of this 22431
state, another state, or the United States that is or was 22432
substantially equivalent to any other offense described in this 22433
division. 22434

(ii) The offender previously was convicted of or pleaded 22435
guilty to any offense listed in division (A)(2) or (A)(4)(d)(i) of 22436
this section. 22437

(5) "Sexually oriented offense" has the same meaning as in 22438
section 2950.01 of the Revised Code. 22439

(B) The director of the department of rehabilitation and 22440
correction may ~~petition~~ recommend in writing to the sentencing 22441
court ~~for the release that the court consider releasing~~ from 22442
prison ~~of~~ any offender who, on or after September 30, 2011, is 22443
confined in a state correctional institution ~~under, who is serving~~ 22444
a stated prison term of one year or more, and who is eligible 22445
under division (C) of this section for a release under this 22446
section ~~and who has served at least eighty per cent of that stated~~ 22447
~~prison term that remains to be served after the offender becomes~~ 22448
~~eligible as described in that division.~~ If the director wishes to 22449
~~submit a petition for release~~ recommend that the sentencing court 22450
consider releasing an offender under this section, the director 22451
shall ~~submit the petition~~ notify the sentencing court in writing 22452
of the offender's eligibility not earlier than ninety days prior 22453
to the date on which the offender ~~has served eighty per cent of~~ 22454
~~the offender's stated prison term that remains to be served after~~ 22455

~~the offender~~ becomes eligible as described in division (C) of this section. The director's submission of ~~a petition for release under this section~~ the written notice constitutes a recommendation by the director that the court strongly consider release of the offender consistent with the purposes and principles of sentencing set forth in sections 2929.11 and 2929.13 of the Revised Code. Only an offender recommended by the director under division (B) of this section may be considered for early release under this section.

(C)(1) An offender serving a stated prison term of one year or more and who has commenced service of that stated prison term becomes eligible for release from prison under this section only as described in this division. An offender serving a stated prison term that includes a disqualifying prison term is not eligible for release from prison under this section. An offender serving a stated prison term that consists solely of one or more restricting prison terms is not eligible for release under this section. An offender serving a stated prison term of one year or more that includes one or more restricting prison terms and one or more eligible prison terms becomes eligible for release under this section after having fully served ~~each~~ all restricting prison ~~term~~ terms and having served eighty per cent of the stated prison term that remains to be served after all restricting prison terms have been fully served. An offender serving a stated prison term that consists solely of one or more eligible prison terms becomes eligible for release under this section ~~upon the offender's commencement of service~~ after having served eighty per cent of that stated prison term. ~~After an offender becomes eligible for release under this section, the director of rehabilitation and correction may petition for the release of the offender under division (C)(2) of this section no earlier than ninety days before the offender has served the portion of the offender's stated prison term specified in that division.~~ For purposes of

determining an offender's eligibility for release under this 22489
section, if the offender's stated prison term includes consecutive 22490
prison terms, any restricting prison terms shall be deemed served 22491
prior to any eligible prison terms that run consecutively to the 22492
restricting prison terms, and the eligible prison terms are deemed 22493
to commence after all of the restricting prison terms have been 22494
fully served. 22495

An offender serving a stated prison term ~~one~~ of one year or 22496
more that includes a mandatory prison term that is not a 22497
disqualifying prison term and is not a restricting prison term is 22498
not automatically ineligible as a result of the offender's service 22499
of that mandatory term for release from prison under this section, 22500
and the offender's eligibility for release from prison under this 22501
section is determined in accordance with this division. 22502

(2) If an offender confined in a state correctional 22503
institution under a stated prison term is eligible for release 22504
under this section as described in division (C)(1) of this 22505
section, the director of the department of rehabilitation and 22506
correction may ~~petition~~ recommend in writing that the sentencing 22507
court ~~pursuant to division (B) of this section for the release~~ 22508
consider releasing the offender from prison of the offender under 22509
this section by submitting to the sentencing court the written 22510
notice described in division (B) of this section. 22511

(D) The director shall include with any ~~petition~~ notice 22512
submitted to the sentencing court under division (B) of this 22513
section an institutional summary report that covers the offender's 22514
participation while confined in a state correctional institution 22515
in school, training, work, treatment, and other rehabilitative 22516
activities and any disciplinary action taken against the offender 22517
while so confined. The director shall include with the ~~petition a~~ 22518
~~post-release control assessment and placement plan, when relevant,~~ 22519
~~and~~ notice any other documentation requested by the court, if 22520

available. 22521

(E) When the director submits a ~~petition~~ written notice to a 22522
sentencing court that an offender is eligible to be considered for 22523
early release under this section ~~for release of an offender~~, the 22524
department promptly shall provide to the prosecuting attorney of 22525
the county in which the offender was indicted a copy of the 22526
~~petition~~ written notice, a copy of the institutional summary 22527
report, and any other information provided to the court. The 22528
department also promptly shall give written notice of the ~~filing~~ 22529
~~of the petition~~ submission to any victim of the offender or 22530
victim's representative of any victim of the offender who is 22531
registered with the office of victim's services. 22532

The department also shall post a copy of the written notice 22533
~~of the petition~~ on the database it maintains under section 5120.66 22534
of the Revised Code and include information on where a person may 22535
send comments regarding the ~~petition~~ recommendation of early 22536
release. 22537

The information provided to the court, the prosecutor, and 22538
the victim or victim's representative under divisions (D) and (E) 22539
of this section shall include the name and contact information of 22540
a specific department of rehabilitation and correction employee 22541
who is available to answer questions about the offender who is the 22542
subject of the written notice submitted by the director, 22543
including, but not limited to, the offender's institutional 22544
conduct and rehabilitative activities while incarcerated. 22545

(F) Upon receipt of a ~~petition for release of an offender~~ 22546
written notice submitted by the director under division (B) of 22547
this section, the court ~~may deny the petition without~~ either 22548
shall, on its own motion, schedule a hearing to consider releasing 22549
the offender who is the subject of the notice or shall inform the 22550
department that it will not be conducting a hearing relative to 22551
the offender. The court shall not grant a ~~petition for an early~~ 22552

release ~~of~~ to an offender without holding a hearing. If a court 22553
~~denies a petition for release of an offender without~~ declines to 22554
hold a hearing relative to an offender with respect to a written 22555
notice submitted by the director, the court may later consider 22556
release of that offender under this section on a ~~subsequent~~ 22557
~~petition. The court shall enter its ruling within~~ its own motion 22558
by scheduling a hearing for that purpose. Within thirty days after 22559
the ~~petition~~ written notice is ~~filed~~ submitted, the court shall 22560
inform the department whether or not the court is scheduling a 22561
hearing on the offender who is the subject of the notice. 22562

(G) If the court ~~grants~~ schedules a hearing ~~on~~ upon receiving 22563
a ~~petition for release of an offender~~ written notice submitted 22564
under division (B) of this section or upon its own motion under 22565
division (F) of this section, the court shall notify the head of 22566
the state correctional institution in which the offender is 22567
confined of the hearing prior to the hearing. If the court makes a 22568
journal entry ordering the offender to be conveyed to the hearing, 22569
except as otherwise provided in this division, the head of the 22570
correctional institution shall deliver the offender to the sheriff 22571
of the county in which the hearing is to be held, and the sheriff 22572
shall convey the offender to and from the hearing. Upon the 22573
court's own motion or the motion of the offender or the 22574
prosecuting attorney of the county in which the offender was 22575
indicted, the court may permit the offender to appear at the 22576
hearing by video conferencing equipment if equipment of that 22577
nature is available and compatible. 22578

Upon receipt of notice from a court of a hearing on the 22579
release of an offender under this division, the head of the state 22580
correctional institution in which the offender is confined 22581
immediately shall notify the appropriate person at the department 22582
of rehabilitation and correction of the hearing, and the 22583
department within twenty-four hours after receipt of the notice 22584

shall post on the database it maintains pursuant to section 22585
5120.66 of the Revised Code the offender's name and all of the 22586
information specified in division (A)(1)(c)(i) of that section. If 22587
the court ~~grants~~ schedules a hearing ~~on a petition for release of~~ 22588
~~an offender~~ under this section, the court promptly shall give 22589
notice of the hearing to the prosecuting attorney of the county in 22590
which the offender was indicted. Upon receipt of the notice from 22591
the court, the prosecuting attorney shall notify pursuant to 22592
section 2930.16 of the Revised Code any victim of the offender or 22593
the victim's representative of the hearing. 22594

(H) If the court ~~grants~~ schedules a hearing ~~on a petition for~~ 22595
~~release of an offender~~ under this section, at the hearing, the 22596
court shall afford the offender and the offender's attorney an 22597
opportunity to present written information and, if present, oral 22598
information relevant to the ~~motion~~ offender's early release. The 22599
court shall afford a similar opportunity to the prosecuting 22600
attorney, victim or victim's representative, as defined in section 22601
2930.01 of the Revised Code, and any other person the court 22602
determines is likely to present additional relevant information. 22603
If the court pursuant to division (G) of this section permits the 22604
offender to appear at the hearing by video conferencing equipment, 22605
the offender's opportunity to present oral information shall be as 22606
a part of the video conferencing. The court shall consider any 22607
statement of a victim made under section 2930.14 or 2930.17 of the 22608
Revised Code, any victim impact statement prepared under section 22609
2947.051 of the Revised Code, and any report, ~~plan~~, and other 22610
documentation submitted by the director under division (D) of this 22611
section. After ruling on ~~the motion~~ whether to grant the offender 22612
early release, the court shall notify the victim in accordance 22613
with sections 2930.03 and 2930.16 of the Revised Code. 22614

(I) If the court grants ~~a petition for release of~~ an offender 22615
early release under this section, it shall order the release of 22616

the offender, shall place the offender under one or more 22617
appropriate community control sanctions, under appropriate 22618
conditions, and under the supervision of the department of 22619
probation that serves the court, and shall reserve the right to 22620
reimpose the sentence that it reduced and from which the offender 22621
was released if the offender violates the sanction. The court 22622
shall not make a release under this section effective prior to the 22623
date on which the offender ~~has served at least eighty per cent of~~ 22624
~~the offender's stated prison term that remains to be served after~~ 22625
~~the offender~~ becomes eligible as described in division (C) of this 22626
section. If the sentence under which the offender is confined in a 22627
state correctional institution and from which the offender is 22628
being released was imposed for a felony of the first or second 22629
degree, the court shall consider ordering that the offender be 22630
monitored by means of a global positioning device. If the court 22631
reimposes the sentence that it reduced and from which the offender 22632
was released and if the violation of the sanction is a new 22633
offense, the court may order that the reimposed sentence be served 22634
either concurrently with, or consecutive to, any new sentence 22635
imposed upon the offender as a result of the violation that is a 22636
new offense. The period of all community control sanctions imposed 22637
under this division shall not exceed five years. The court, in its 22638
discretion, may reduce the period of community control sanctions 22639
by the amount of time the offender spent in jail or prison for the 22640
offense. 22641

If the court grants ~~a petition for release of~~ an offender 22642
early release under this section, it shall notify the appropriate 22643
person at the department of rehabilitation and correction of the 22644
release, and the department shall post notice of the release on 22645
the database it maintains pursuant to section 5120.66 of the 22646
Revised Code. 22647

(J) The department shall adopt under Chapter 119. of the 22648

Revised Code any rules necessary to implement this section. 22649

Sec. 2967.191. The department of rehabilitation and 22650
correction shall reduce the stated prison term of a prisoner or, 22651
if the prisoner is serving a term for which there is parole 22652
eligibility, the minimum and maximum term or the parole 22653
eligibility date of the prisoner by the total number of days that 22654
the prisoner was confined for any reason arising out of the 22655
offense for which the prisoner was convicted and sentenced, 22656
including confinement in lieu of bail while awaiting trial, 22657
confinement for examination to determine the prisoner's competence 22658
to stand trial or sanity, and confinement while awaiting 22659
transportation to the place where the prisoner is to serve the 22660
prisoner's prison term, as determined by the sentencing court 22661
under division (B)(2)(h)(i) of section 2929.19 of the Revised 22662
Code. The department of rehabilitation and correction also shall 22663
reduce the stated prison term of a prisoner or, if the prisoner is 22664
serving a term for which there is parole eligibility, the minimum 22665
and maximum term or the parole eligibility date of the prisoner by 22666
the total number of days, if any, that the prisoner previously 22667
served in the custody of the department of rehabilitation and 22668
correction arising out of the offense for which the prisoner was 22669
convicted and sentenced. 22670

Sec. 2967.26. (A)(1) The department of rehabilitation and 22671
correction, by rule, may establish a transitional control program 22672
for the purpose of closely monitoring a prisoner's adjustment to 22673
community supervision during the final one hundred eighty days of 22674
the prisoner's confinement. If the department establishes a 22675
transitional control program under this division, the adult parole 22676
authority may transfer eligible prisoners to transitional control 22677
status under the program during the final one hundred eighty days 22678
of their confinement and under the terms and conditions 22679

established by the department, shall provide for the confinement 22680
as provided in this division of each eligible prisoner so 22681
transferred, and shall supervise each eligible prisoner so 22682
transferred in one or more community control sanctions. Each 22683
eligible prisoner who is transferred to transitional control 22684
status under the program shall be confined in a suitable facility 22685
that is licensed pursuant to division (C) of section 2967.14 of 22686
the Revised Code, or shall be confined in a residence the 22687
department has approved for this purpose and be monitored pursuant 22688
to an electronic monitoring device, as defined in section 2929.01 22689
of the Revised Code. If the department establishes a transitional 22690
control program under this division, the rules establishing the 22691
program shall include criteria that define which prisoners are 22692
eligible for the program, criteria that must be satisfied to be 22693
approved as a residence that may be used for confinement under the 22694
program of a prisoner that is transferred to it and procedures for 22695
the department to approve residences that satisfy those criteria, 22696
and provisions of the type described in division (C) of this 22697
section. At a minimum, the criteria that define which prisoners 22698
are eligible for the program shall provide all of the following: 22699

(a) That a prisoner is eligible for the program if the 22700
prisoner is serving a prison term or term of imprisonment for an 22701
offense committed prior to March 17, 1998, and if, at the time at 22702
which eligibility is being determined, the prisoner would have 22703
been eligible for a furlough under this section as it existed 22704
immediately prior to March 17, 1998, or would have been eligible 22705
for conditional release under former section 2967.23 of the 22706
Revised Code as that section existed immediately prior to March 22707
17, 1998; 22708

(b) That no prisoner who is serving a mandatory prison term 22709
is eligible for the program until after expiration of the 22710
mandatory term; 22711

(c) That no prisoner who is serving a prison term or term of 22712
life imprisonment without parole imposed pursuant to section 22713
2971.03 of the Revised Code is eligible for the program. 22714

(2) At least three weeks prior to transferring to 22715
transitional control under this section a prisoner who is serving 22716
a term of imprisonment or prison term for an offense committed on 22717
or after July 1, 1996, the ~~adult~~ division of parole authority and 22718
community services of the department of rehabilitation and 22719
correction shall give notice of the pendency of the transfer to 22720
transitional control to the court of common pleas of the county in 22721
which the indictment against the prisoner was found and of the 22722
fact that the court may disapprove the transfer of the prisoner to 22723
transitional control and shall include a report prepared by the 22724
head of the state correctional institution in which the prisoner 22725
is confined. The head of the state correctional institution in 22726
which the prisoner is confined, upon the request of the adult 22727
parole authority, shall provide to the authority for inclusion in 22728
the notice sent to the court under this division a report on the 22729
prisoner's conduct in the institution and in any institution from 22730
which the prisoner may have been transferred. The report shall 22731
cover the prisoner's participation in school, vocational training, 22732
work, treatment, and other rehabilitative activities and any 22733
disciplinary action taken against the prisoner. If the court 22734
disapproves of the transfer of the prisoner to transitional 22735
control, the court shall notify the authority of the disapproval 22736
within thirty days after receipt of the notice. If the court 22737
timely disapproves the transfer of the prisoner to transitional 22738
control, the authority shall not proceed with the transfer. If the 22739
court does not timely disapprove the transfer of the prisoner to 22740
transitional control, the authority may transfer the prisoner to 22741
transitional control. 22742

(3) If the victim of an offense for which a prisoner was 22743

sentenced to a prison term or term of imprisonment has requested 22744
notification under section 2930.16 of the Revised Code and has 22745
provided the department of rehabilitation and correction with the 22746
victim's name and address, the adult parole authority, at least 22747
three weeks prior to transferring the prisoner to transitional 22748
control pursuant to this section, shall notify the victim of the 22749
pendency of the transfer and of the victim's right to submit a 22750
statement to the authority regarding the impact of the transfer of 22751
the prisoner to transitional control. If the victim subsequently 22752
submits a statement of that nature to the authority, the authority 22753
shall consider the statement in deciding whether to transfer the 22754
prisoner to transitional control. 22755

(4) The department of rehabilitation and correction, at least 22756
three weeks prior to transferring a prisoner to transitional 22757
control pursuant to this section, shall post on the database it 22758
maintains pursuant to section 5120.66 of the Revised Code the 22759
prisoner's name and all of the information specified in division 22760
(A)(1)(c)(iv) of that section. In addition to and independent of 22761
the right of a victim to submit a statement as described in 22762
division (A)(3) of this section or to otherwise make a statement 22763
and in addition to and independent of any other right or duty of a 22764
person to present information or make a statement, any person may 22765
send to the adult parole authority at any time prior to the 22766
authority's transfer of the prisoner to transitional control a 22767
written statement regarding the transfer of the prisoner to 22768
transitional control. In addition to the information, reports, and 22769
statements it considers under divisions (A)(2) and (3) of this 22770
section or that it otherwise considers, the authority shall 22771
consider each statement submitted in accordance with this division 22772
in deciding whether to transfer the prisoner to transitional 22773
control. 22774

(B) Each prisoner transferred to transitional control under 22775

this section shall be confined in the manner described in division 22776
(A) of this section during any period of time that the prisoner is 22777
not actually working at the prisoner's approved employment, 22778
engaged in a vocational training or another educational program, 22779
engaged in another program designated by the director, or engaged 22780
in other activities approved by the department. 22781

(C) The department of rehabilitation and correction shall 22782
adopt rules for transferring eligible prisoners to transitional 22783
control, supervising and confining prisoners so transferred, 22784
administering the transitional control program in accordance with 22785
this section, and using the moneys deposited into the transitional 22786
control fund established under division (E) of this section. 22787

(D) The department of rehabilitation and correction may adopt 22788
rules for the issuance of passes for the limited purposes 22789
described in this division to prisoners who are transferred to 22790
transitional control under this section. If the department adopts 22791
rules of that nature, the rules shall govern the granting of the 22792
passes and shall provide for the supervision of prisoners who are 22793
temporarily released pursuant to one of those passes. Upon the 22794
adoption of rules under this division, the department may issue 22795
passes to prisoners who are transferred to transitional control 22796
status under this section in accordance with the rules and the 22797
provisions of this division. All passes issued under this division 22798
shall be for a maximum of forty-eight hours and may be issued only 22799
for the following purposes: 22800

(1) To visit a relative in imminent danger of death; 22801

(2) To have a private viewing of the body of a deceased 22802
relative; 22803

(3) To visit with family; 22804

(4) To otherwise aid in the rehabilitation of the prisoner. 22805

(E) The adult parole authority may require a prisoner who is 22806

transferred to transitional control to pay to the division of 22807
parole and community services the reasonable expenses incurred by 22808
the division in supervising or confining the prisoner while under 22809
transitional control. Inability to pay those reasonable expenses 22810
shall not be grounds for refusing to transfer an otherwise 22811
eligible prisoner to transitional control. Amounts received by the 22812
division of parole and community services under this division 22813
shall be deposited into the transitional control fund, which is 22814
hereby created in the state treasury and which hereby replaces and 22815
succeeds the furlough services fund that formerly existed in the 22816
state treasury. All moneys that remain in the furlough services 22817
fund on March 17, 1998, shall be transferred on that date to the 22818
transitional control fund. The transitional control fund shall be 22819
used solely to pay costs related to the operation of the 22820
transitional control program established under this section. The 22821
director of rehabilitation and correction shall adopt rules in 22822
accordance with section 111.15 of the Revised Code for the use of 22823
the fund. 22824

(F) A prisoner who violates any rule established by the 22825
department of rehabilitation and correction under division (A), 22826
(C), or (D) of this section may be transferred to a state 22827
correctional institution pursuant to rules adopted under division 22828
(A), (C), or (D) of this section, but the prisoner shall receive 22829
credit towards completing the prisoner's sentence for the time 22830
spent under transitional control. 22831

If a prisoner is transferred to transitional control under 22832
this section, upon successful completion of the period of 22833
transitional control, the prisoner may be released on parole or 22834
under post-release control pursuant to section 2967.13 or 2967.28 22835
of the Revised Code and rules adopted by the department of 22836
rehabilitation and correction. If the prisoner is released under 22837
post-release control, the duration of the post-release control, 22838

the type of post-release control sanctions that may be imposed, 22839
the enforcement of the sanctions, and the treatment of prisoners 22840
who violate any sanction applicable to the prisoner are governed 22841
by section 2967.28 of the Revised Code. 22842

Sec. 2967.28. (A) As used in this section: 22843

(1) "Monitored time" means the monitored time sanction 22844
specified in section 2929.17 of the Revised Code. 22845

(2) "Deadly weapon" and "dangerous ordnance" have the same 22846
meanings as in section 2923.11 of the Revised Code. 22847

(3) "Felony sex offense" means a violation of a section 22848
contained in Chapter 2907. of the Revised Code that is a felony. 22849

(4) "Risk reduction sentence" means a prison term imposed by 22850
a court, when the court recommends pursuant to section 2929.143 of 22851
the Revised Code that the offender serve the sentence under 22852
section 5120.036 of the Revised Code, and the offender may 22853
potentially be released from imprisonment prior to the expiration 22854
of the prison term if the offender successfully completes all 22855
assessment and treatment or programming required by the department 22856
of rehabilitation and correction under section 5120.036 of the 22857
Revised Code. 22858

(B) Each sentence to a prison term for a felony of the first 22859
degree, for a felony of the second degree, for a felony sex 22860
offense, or for a felony of the third degree that is not a felony 22861
sex offense and in the commission of which the offender caused or 22862
threatened to cause physical harm to a person shall include a 22863
requirement that the offender be subject to a period of 22864
post-release control imposed by the parole board after the 22865
offender's release from imprisonment. This division applies with 22866
respect to all prison terms of a type described in this division, 22867
including a term of any such type that is a risk reduction 22868

sentence. If a court imposes a sentence including a prison term of 22869
a type described in this division on or after July 11, 2006, the 22870
failure of a sentencing court to notify the offender pursuant to 22871
division (B)(2)(c) of section 2929.19 of the Revised Code of this 22872
requirement or to include in the judgment of conviction entered on 22873
the journal a statement that the offender's sentence includes this 22874
requirement does not negate, limit, or otherwise affect the 22875
mandatory period of supervision that is required for the offender 22876
under this division. Section 2929.191 of the Revised Code applies 22877
if, prior to July 11, 2006, a court imposed a sentence including a 22878
prison term of a type described in this division and failed to 22879
notify the offender pursuant to division (B)(2)(c) of section 22880
2929.19 of the Revised Code regarding post-release control or to 22881
include in the judgment of conviction entered on the journal or in 22882
the sentence pursuant to division (D)(1) of section 2929.14 of the 22883
Revised Code a statement regarding post-release control. Unless 22884
reduced by the parole board pursuant to division (D) of this 22885
section when authorized under that division, a period of 22886
post-release control required by this division for an offender 22887
shall be of one of the following periods: 22888

(1) For a felony of the first degree or for a felony sex 22889
offense, five years; 22890

(2) For a felony of the second degree that is not a felony 22891
sex offense, three years; 22892

(3) For a felony of the third degree that is not a felony sex 22893
offense and in the commission of which the offender caused or 22894
threatened physical harm to a person, three years. 22895

(C) Any sentence to a prison term for a felony of the third, 22896
fourth, or fifth degree that is not subject to division (B)(1) or 22897
(3) of this section shall include a requirement that the offender 22898
be subject to a period of post-release control of up to three 22899
years after the offender's release from imprisonment, if the 22900

parole board, in accordance with division (D) of this section, 22901
determines that a period of post-release control is necessary for 22902
that offender. This division applies with respect to all prison 22903
terms of a type described in this division, including a term of 22904
any such type that is a risk reduction sentence. Section 2929.191 22905
of the Revised Code applies if, prior to July 11, 2006, a court 22906
imposed a sentence including a prison term of a type described in 22907
this division and failed to notify the offender pursuant to 22908
division (B)(2)(d) of section 2929.19 of the Revised Code 22909
regarding post-release control or to include in the judgment of 22910
conviction entered on the journal or in the sentence pursuant to 22911
division (D)(2) of section 2929.14 of the Revised Code a statement 22912
regarding post-release control. Pursuant to an agreement entered 22913
into under section 2967.29 of the Revised Code, a court of common 22914
pleas or parole board may impose sanctions or conditions on an 22915
offender who is placed on post-release control under this 22916
division. 22917

(D)(1) Before the prisoner is released from imprisonment, the 22918
parole board or, pursuant to an agreement under section 2967.29 of 22919
the Revised Code, the court shall impose upon a prisoner described 22920
in division (B) of this section, shall impose upon a prisoner 22921
described in division (C) of this section who is to be released 22922
before the expiration of the prisoner's stated prison term under a 22923
risk reduction sentence, may impose upon a prisoner described in 22924
division (C) of this section who is not to be released before the 22925
expiration of the prisoner's stated prison term under a risk 22926
reduction sentence, and shall impose upon a prisoner described in 22927
division (B)(2)(b) of section 5120.031 or in division (B)(1) of 22928
section 5120.032 of the Revised Code, one or more post-release 22929
control sanctions to apply during the prisoner's period of 22930
post-release control. Whenever the board or court imposes one or 22931
more post-release control sanctions upon a prisoner, the board or 22932
court, in addition to imposing the sanctions, also shall include 22933

as a condition of the post-release control that the offender not 22934
leave the state without permission of the court or the offender's 22935
parole or probation officer and that the offender abide by the 22936
law. The board or court may impose any other conditions of release 22937
under a post-release control sanction that the board or court 22938
considers appropriate, and the conditions of release may include 22939
any community residential sanction, community nonresidential 22940
sanction, or financial sanction that the sentencing court was 22941
authorized to impose pursuant to sections 2929.16, 2929.17, and 22942
2929.18 of the Revised Code. Prior to the release of a prisoner 22943
for whom it will impose one or more post-release control sanctions 22944
under this division, the parole board or court shall review the 22945
prisoner's criminal history, results from the single validated 22946
risk assessment tool selected by the department of rehabilitation 22947
and correction under section 5120.114 of the Revised Code, all 22948
juvenile court adjudications finding the prisoner, while a 22949
juvenile, to be a delinquent child, and the record of the 22950
prisoner's conduct while imprisoned. The parole board or court 22951
shall consider any recommendation regarding post-release control 22952
sanctions for the prisoner made by the office of victims' 22953
services. After considering those materials, the board or court 22954
shall determine, for a prisoner described in division (B) of this 22955
section, division (B)(2)(b) of section 5120.031, or division 22956
(B)(1) of section 5120.032 of the Revised Code and for a prisoner 22957
described in division (C) of this section who is to be released 22958
before the expiration of the prisoner's stated prison term under a 22959
risk reduction sentence, which post-release control sanction or 22960
combination of post-release control sanctions is reasonable under 22961
the circumstances or, for a prisoner described in division (C) of 22962
this section who is not to be released before the expiration of 22963
the prisoner's stated prison term under a risk reduction sentence, 22964
whether a post-release control sanction is necessary and, if so, 22965
which post-release control sanction or combination of post-release 22966

control sanctions is reasonable under the circumstances. In the 22967
case of a prisoner convicted of a felony of the fourth or fifth 22968
degree other than a felony sex offense, the board or court shall 22969
presume that monitored time is the appropriate post-release 22970
control sanction unless the board or court determines that a more 22971
restrictive sanction is warranted. A post-release control sanction 22972
imposed under this division takes effect upon the prisoner's 22973
release from imprisonment. 22974

Regardless of whether the prisoner was sentenced to the 22975
prison term prior to, on, or after July 11, 2006, prior to the 22976
release of a prisoner for whom it will impose one or more 22977
post-release control sanctions under this division, the parole 22978
board shall notify the prisoner that, if the prisoner violates any 22979
sanction so imposed or any condition of post-release control 22980
described in division (B) of section 2967.131 of the Revised Code 22981
that is imposed on the prisoner, the parole board may impose a 22982
prison term of up to one-half of the stated prison term originally 22983
imposed upon the prisoner. 22984

(2) If a prisoner who is placed on post-release control under 22985
this section is released before the expiration of the prisoner's 22986
stated prison term by reason of credit earned under section 22987
2967.193 of the Revised Code and if the prisoner earned sixty or 22988
more days of credit, the adult parole authority shall supervise 22989
the offender with an active global positioning system device for 22990
the first fourteen days after the offender's release from 22991
imprisonment. This division does not prohibit or limit the 22992
imposition of any post-release control sanction otherwise 22993
authorized by this section. 22994

(3) At any time after a prisoner is released from 22995
imprisonment and during the period of post-release control 22996
applicable to the releasee, the adult parole authority or, 22997
pursuant to an agreement under section 2967.29 of the Revised 22998

Code, the court may review the releasee's behavior under the 22999
post-release control sanctions imposed upon the releasee under 23000
this section. The authority or court may determine, based upon the 23001
review and in accordance with the standards established under 23002
division (E) of this section, that a more restrictive or a less 23003
restrictive sanction is appropriate and may impose a different 23004
sanction. The authority also may recommend that the parole board 23005
or court increase or reduce the duration of the period of 23006
post-release control imposed by the court. If the authority 23007
recommends that the board or court increase the duration of 23008
post-release control, the board or court shall review the 23009
releasee's behavior and may increase the duration of the period of 23010
post-release control imposed by the court up to eight years. If 23011
the authority recommends that the board or court reduce the 23012
duration of control for an offense described in division (B) or 23013
(C) of this section, the board or court shall review the 23014
releasee's behavior and may reduce the duration of the period of 23015
control imposed by the court. In no case shall the board or court 23016
reduce the duration of the period of control imposed for an 23017
offense described in division (B)(1) of this section to a period 23018
less than the length of the stated prison term originally imposed, 23019
and in no case shall the board or court permit the releasee to 23020
leave the state without permission of the court or the releasee's 23021
parole or probation officer. 23022

(E) The department of rehabilitation and correction, in 23023
accordance with Chapter 119. of the Revised Code, shall adopt 23024
rules that do all of the following: 23025

(1) Establish standards for the imposition by the parole 23026
board of post-release control sanctions under this section that 23027
are consistent with the overriding purposes and sentencing 23028
principles set forth in section 2929.11 of the Revised Code and 23029
that are appropriate to the needs of releasees; 23030

(2) Establish standards that provide for a period of 23031
post-release control of up to three years for all prisoners 23032
described in division (C) of this section who are to be released 23033
before the expiration of their stated prison term under a risk 23034
reduction sentence and standards by which the parole board can 23035
determine which prisoners described in division (C) of this 23036
section who are not to be released before the expiration of their 23037
stated prison term under a risk reduction sentence should be 23038
placed under a period of post-release control; 23039

(3) Establish standards to be used by the parole board in 23040
reducing the duration of the period of post-release control 23041
imposed by the court when authorized under division (D) of this 23042
section, in imposing a more restrictive post-release control 23043
sanction than monitored time upon a prisoner convicted of a felony 23044
of the fourth or fifth degree other than a felony sex offense, or 23045
in imposing a less restrictive control sanction upon a releasee 23046
based on the releasee's activities including, but not limited to, 23047
remaining free from criminal activity and from the abuse of 23048
alcohol or other drugs, successfully participating in approved 23049
rehabilitation programs, maintaining employment, and paying 23050
restitution to the victim or meeting the terms of other financial 23051
sanctions; 23052

(4) Establish standards to be used by the adult parole 23053
authority in modifying a releasee's post-release control sanctions 23054
pursuant to division (D)(2) of this section; 23055

(5) Establish standards to be used by the adult parole 23056
authority or parole board in imposing further sanctions under 23057
division (F) of this section on releasees who violate post-release 23058
control sanctions, including standards that do the following: 23059

(a) Classify violations according to the degree of 23060
seriousness; 23061

(b) Define the circumstances under which formal action by the parole board is warranted; 23062
23063

(c) Govern the use of evidence at violation hearings; 23064

(d) Ensure procedural due process to an alleged violator; 23065

(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations; 23066
23067

(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control. 23068
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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. 23070
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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 23088
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more restrictive sanction is appropriate, the authority or court 23093
may impose a more restrictive sanction upon the releasee, in 23094
accordance with the standards established under division (E) of 23095
this section or in accordance with the agreement made under 23096
section 2967.29 of the Revised Code, or may report the violation 23097
to the parole board for a hearing pursuant to division (F)(3) of 23098
this section. The authority or court may not, pursuant to this 23099
division, increase the duration of the releasee's post-release 23100
control or impose as a post-release control sanction a residential 23101
sanction that includes a prison term, but the authority or court 23102
may impose on the releasee any other residential sanction, 23103
nonresidential sanction, or financial sanction that the sentencing 23104
court was authorized to impose pursuant to sections 2929.16, 23105
2929.17, and 2929.18 of the Revised Code. 23106

(3) The parole board or, pursuant to an agreement under 23107
section 2967.29 of the Revised Code, the court may hold a hearing 23108
on any alleged violation by a releasee of a post-release control 23109
sanction or any conditions described in division (A) of section 23110
2967.131 of the Revised Code that are imposed upon the releasee. 23111
If after the hearing the board or court finds that the releasee 23112
violated the sanction or condition, the board or court may 23113
increase the duration of the releasee's post-release control up to 23114
the maximum duration authorized by division (B) or (C) of this 23115
section or impose a more restrictive post-release control 23116
sanction. When appropriate, the board or court may impose as a 23117
post-release control sanction a residential sanction that includes 23118
a prison term. The board or court shall consider a prison term as 23119
a post-release control sanction imposed for a violation of 23120
post-release control when the violation involves a deadly weapon 23121
or dangerous ordnance, physical harm or attempted serious physical 23122
harm to a person, or sexual misconduct, or when the releasee 23123
committed repeated violations of post-release control sanctions. 23124
Unless a releasee's stated prison term was reduced pursuant to 23125

section 5120.032 of the Revised Code, the period of a prison term 23126
that is imposed as a post-release control sanction under this 23127
division shall not exceed nine months, and the maximum cumulative 23128
prison term for all violations under this division shall not 23129
exceed one-half of the stated prison term originally imposed upon 23130
the offender as part of this sentence. If a releasee's stated 23131
prison term was reduced pursuant to section 5120.032 of the 23132
Revised Code, the period of a prison term that is imposed as a 23133
post-release control sanction under this division and the maximum 23134
cumulative prison term for all violations under this division 23135
shall not exceed the period of time not served in prison under the 23136
sentence imposed by the court. The period of a prison term that is 23137
imposed as a post-release control sanction under this division 23138
shall not count as, or be credited toward, the remaining period of 23139
post-release control. 23140

If an offender is imprisoned for a felony committed while 23141
under post-release control supervision and is again released on 23142
post-release control for a period of time determined by division 23143
(F)(4)(d) of this section, the maximum cumulative prison term for 23144
all violations under this division shall not exceed one-half of 23145
the total stated prison terms of the earlier felony, reduced by 23146
any prison term administratively imposed by the parole board or 23147
court, plus one-half of the total stated prison term of the new 23148
felony. 23149

(4) Any period of post-release control shall commence upon an 23150
offender's actual release from prison. If an offender is serving 23151
an indefinite prison term or a life sentence in addition to a 23152
stated prison term, the offender shall serve the period of 23153
post-release control in the following manner: 23154

(a) If a period of post-release control is imposed upon the 23155
offender and if the offender also is subject to a period of parole 23156
under a life sentence or an indefinite sentence, and if the period 23157

of post-release control ends prior to the period of parole, the 23158
offender shall be supervised on parole. The offender shall receive 23159
credit for post-release control supervision during the period of 23160
parole. The offender is not eligible for final release under 23161
section 2967.16 of the Revised Code until the post-release control 23162
period otherwise would have ended. 23163

(b) If a period of post-release control is imposed upon the 23164
offender and if the offender also is subject to a period of parole 23165
under an indefinite sentence, and if the period of parole ends 23166
prior to the period of post-release control, the offender shall be 23167
supervised on post-release control. The requirements of parole 23168
supervision shall be satisfied during the post-release control 23169
period. 23170

(c) If an offender is subject to more than one period of 23171
post-release control, the period of post-release control for all 23172
of the sentences shall be the period of post-release control that 23173
expires last, as determined by the parole board or court. Periods 23174
of post-release control shall be served concurrently and shall not 23175
be imposed consecutively to each other. 23176

(d) The period of post-release control for a releasee who 23177
commits a felony while under post-release control for an earlier 23178
felony shall be the longer of the period of post-release control 23179
specified for the new felony under division (B) or (C) of this 23180
section or the time remaining under the period of post-release 23181
control imposed for the earlier felony as determined by the parole 23182
board or court. 23183

Sec. 2981.11. (A)(1) Any property that has been lost, 23184
abandoned, stolen, seized pursuant to a search warrant, or 23185
otherwise lawfully seized or forfeited and that is in the custody 23186
of a law enforcement agency shall be kept safely by the agency, 23187
pending the time it no longer is needed as evidence or for another 23188

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| lawful purpose, and shall be disposed of pursuant to sections | 23189 |
| 2981.12 and 2981.13 of the Revised Code. | 23190 |
| (2) This chapter does not apply to the custody and disposal | 23191 |
| of any of the following: | 23192 |
| (a) Vehicles subject to forfeiture under Title XLV of the | 23193 |
| Revised Code, except as provided in division (A)(6) of section | 23194 |
| 2981.12 of the Revised Code; | 23195 |
| (b) Abandoned junk motor vehicles or other property of | 23196 |
| negligible value; | 23197 |
| (c) Property held by a department of rehabilitation and | 23198 |
| correction institution that is unclaimed, that does not have an | 23199 |
| identified owner, that the owner agrees to dispose of, or that is | 23200 |
| identified by the department as having little value; | 23201 |
| (d) Animals taken, and devices used in unlawfully taking | 23202 |
| animals, under section 1531.20 of the Revised Code; | 23203 |
| (e) Controlled substances sold by a peace officer in the | 23204 |
| performance of the officer's official duties under section | 23205 |
| 3719.141 of the Revised Code; | 23206 |
| (f) Property recovered by a township law enforcement agency | 23207 |
| under sections 505.105 to 505.109 of the Revised Code; | 23208 |
| (g) Property held and disposed of under an ordinance of the | 23209 |
| municipal corporation or under sections 737.29 to 737.33 of the | 23210 |
| Revised Code, except that a municipal corporation that has | 23211 |
| received notice of a citizens' reward program as provided in | 23212 |
| division (F) of section 2981.12 of the Revised Code and disposes | 23213 |
| of property under an ordinance shall pay twenty-five per cent of | 23214 |
| any moneys acquired from any sale or auction to the citizens' | 23215 |
| reward program. | 23216 |
| (B)(1) Each law enforcement agency that has custody of any | 23217 |
| property that is subject to this section shall adopt and comply | 23218 |

with a written internal control policy that does all of the 23219
following: 23220

(a) Provides for keeping detailed records as to the amount of 23221
property acquired by the agency and the date property was 23222
acquired; 23223

(b) Provides for keeping detailed records of the disposition 23224
of the property, which shall include, but not be limited to, both 23225
of the following: 23226

(i) The manner in which it was disposed, the date of 23227
disposition, detailed financial records concerning any property 23228
sold, and the name of any person who received the property. The 23229
record shall not identify or enable identification of the 23230
individual officer who seized any item of property. 23231

(ii) The general types of expenditures made with amounts that 23232
are gained from the sale of the property and that are retained by 23233
the agency, including the specific amount expended on each general 23234
type of expenditure, except that the policy shall not provide for 23235
or permit the identification of any specific expenditure that is 23236
made in an ongoing investigation. 23237

(c) Complies with section 2981.13 of the Revised Code if the 23238
agency has a law enforcement trust fund or similar fund created 23239
under that section. 23240

~~(2) Each law enforcement agency that during any calendar year 23241
has any seized or forfeited property covered by this section in 23242
its custody, including amounts distributed under section 2981.13 23243
of the Revised Code to its law enforcement trust fund or a similar 23244
fund created for the state highway patrol, department of public 23245
safety, department of taxation, or state board of pharmacy, shall 23246
prepare a report covering the calendar year that cumulates all of 23247
the information contained in all of the public records kept by the 23248
agency pursuant to this section for that calendar year. The agency 23249~~

~~shall send a copy of the cumulative report to the attorney general 23250
not later than the first day of March in the calendar year 23251
following the calendar year covered by the report. 23252~~

~~(3) The records kept under the internal control policy shall 23253
be open to public inspection during the agency's regular business 23254
hours. The policy adopted under this section and each report 23255
received by the attorney general is a public record open for 23256
inspection under section 149.43 of the Revised Code. 23257~~

~~(4) Not later than the fifteenth day of April in each 23258
calendar year in which reports are sent to the attorney general 23259
under division (B)(2) of this section, the attorney general shall 23260
send to the president of the senate and the speaker of the house 23261
of representatives a written notice that indicates that the 23262
attorney general received reports that cover the previous calendar 23263
year, that the reports are open for inspection under section 23264
149.43 of the Revised Code, and that the attorney general will 23265
provide a copy of any or all of the reports to the president of 23266
the senate or the speaker of the house of representatives upon 23267
request. 23268~~

~~(C) A law enforcement agency with custody of property to be 23269
disposed of under section 2981.12 or 2981.13 of the Revised Code 23270
shall make a reasonable effort to locate persons entitled to 23271
possession of the property, to notify them of when and where it 23272
may be claimed, and to return the property to them at the earliest 23273
possible time. In the absence of evidence identifying persons 23274
entitled to possession, it is sufficient notice to advertise in a 23275
newspaper of general circulation in the county and to briefly 23276
describe the nature of the property in custody and inviting 23277
persons to view and establish their right to it. 23278~~

~~(D) As used in sections 2981.11 to 2981.13 of the Revised 23279
Code: 23280~~

(1) "Citizens' reward program" has the same meaning as in section 9.92 of the Revised Code. 23281
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(2) "Law enforcement agency" includes correctional institutions. 23283
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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. 23285
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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. 23288
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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. 23293
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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. 23305
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| Sec. 3125.41. (A) As used in this section: | 23312 |
| (1) "Cable television service" has the same meaning as in section 2913.01 of the Revised Code. | 23313 23314 |
| (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. | 23315 23316 23317 23318 23319 23320 23321 |
| (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: | 23322 23323 23324 23325 |
| (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; | 23326 23327 23328 23329 |
| (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; | 23330 23331 23332 |
| (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. | 23333 23334 23335 |
| 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: | 23336 23337 23338 23339 |
| (1) The building is operated by the district, county DD | 23340 |

board, or eligible nonpublic school and has been approved by the 23341
division of ~~labor~~ industrial compliance in the department of 23342
commerce or a certified municipal, township, or county building 23343
department for the purpose of operating a program for preschool 23344
children. Any such structure shall be constructed, equipped, 23345
repaired, altered, and maintained in accordance with applicable 23346
provisions of Chapters 3781. and 3791. and with rules adopted by 23347
the board of building standards under Chapter 3781. of the Revised 23348
Code for the safety and sanitation of structures erected for this 23349
purpose. 23350

(2) The building is in compliance with fire and safety laws 23351
and regulations as evidenced by reports of annual school fire and 23352
safety inspections as conducted by appropriate local authorities. 23353

(3) The school is in compliance with rules established by the 23354
state board of education regarding school food services. 23355

(4) The facility includes not less than thirty-five square 23356
feet of indoor space for each child in the program. Safe play 23357
space, including both indoor and outdoor play space, totaling not 23358
less than sixty square feet for each child using the space at any 23359
one time, shall be regularly available and scheduled for use. 23360

(5) First aid facilities and space for temporary placement or 23361
isolation of injured or ill children are provided. 23362

(B) Each school district, county DD board, or eligible 23363
nonpublic school that operates, or proposes to operate, a 23364
preschool program shall submit a building plan including all 23365
information specified by the state board of education to the board 23366
not later than the first day of September of the school year in 23367
which the program is to be initiated. The board shall determine 23368
whether the buildings meet the requirements of this section and 23369
section 3301.53 of the Revised Code, and notify the superintendent 23370
of its determination. If the board determines, on the basis of the 23371

building plan or any other information, that the buildings do not 23372
meet those requirements, it shall cause the buildings to be 23373
inspected by the department of education. The department shall 23374
make a report to the superintendent specifying any aspects of the 23375
building that are not in compliance with the requirements of this 23376
section and section 3301.53 of the Revised Code and the time 23377
period that will be allowed the district, county DD board, or 23378
school to meet the requirements. 23379

Sec. 3301.75. (A) As used in this section, "affiliate" has 23380
the same meaning as in section 3333.89 of the Revised Code. 23381

(B) The department of education, in coordination with the 23382
chancellor of the Ohio board of regents, shall do all of the 23383
following: 23384

(1) Make grants to institutions and other organizations as 23385
prescribed by the general assembly for the provision of technical 23386
assistance and other support services to enable school districts, 23387
community schools established under Chapter 3314. of the Revised 23388
Code, other educational institutions, and affiliates to utilize 23389
educational technology; 23390

(2) Establish a reporting system for school districts, 23391
community schools, other educational institutions, affiliates, and 23392
educational technology organizations that receive financial 23393
assistance from the office. The system may require the reporting 23394
of information regarding the manner in which the assistance was 23395
expended, the manner in which the equipment or services purchased 23396
with the assistance is being utilized, the results or outcome of 23397
the utilization, the manner in which the utilization is compatible 23398
with the statewide academic standards adopted by the state board 23399
of education pursuant to section 3301.079 of the Revised Code, and 23400
any other information determined by the office. 23401

(3) Ensure that, where appropriate, products produced by any 23402

entity to which the office provides financial assistance for use 23403
in elementary and secondary education are aligned with the 23404
statewide academic standards adopted by the state board under 23405
section 3301.079 of the Revised Code. 23406

(4) Promote accessibility to educational products aligned 23407
with the statewide academic standards for school districts, 23408
community schools, and other entities serving grades kindergarten 23409
through twelve. 23410

(5) Execute contracts and other agreements necessary and 23411
desirable to carry out the purposes of this section. 23412

Sec. 3304.14. (A) The governor shall appoint an administrator 23413
of the rehabilitation services commission to serve at the pleasure 23414
of the governor and shall fix the administrator's compensation. 23415
The administrator shall devote the administrator's entire time to 23416
the duties of the administrator's office, shall hold no other 23417
office or position of trust and profit, and shall engage in no 23418
other business during the administrator's term of office. The 23419
governor may grant the administrator the authority to appoint, 23420
remove, and discipline without regard to sex, race, creed, color, 23421
age, or national origin, such other professional, administrative, 23422
and clerical staff members as are necessary to carry out the 23423
functions and duties of the commission. 23424

(B)(1) The administrator shall have exclusive authority to 23425
administer the daily operation and provision of vocational 23426
rehabilitation services under this chapter. 23427

(2) The administrator shall establish a fee schedule for 23428
vocational rehabilitation services in accordance with 34 C.F.R. 23429
361.50. 23430

Sec. 3304.16. In carrying out the purposes of sections 23431
3304.11 to 3304.27 of the Revised Code, the rehabilitation 23432

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| services commission: | 23433 |
| (A) Shall develop all necessary rules; | 23434 |
| (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; | 23435 23436 23437 23438 |
| (C) Shall certify any disbursement of funds available to the commission for vocational rehabilitation activities; | 23439 23440 |
| (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; | 23441 23442 23443 |
| (E) Shall take appropriate action to guarantee rights of and services to handicapped persons; | 23444 23445 |
| (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; | 23446 23447 23448 23449 |
| (G) Shall establish an administrative division of consumer affairs and advocacy within the commission to promote and help guarantee the rights of handicapped persons; | 23450 23451 23452 |
| (H) Shall maintain an inventory of state services that are available to handicapped persons; | 23453 23454 |
| (I) Shall utilize, support, assist, and cooperate with the governor's committee on employment of the handicapped; | 23455 23456 |
| (J) May delegate to any officer or employee of the commission <u>any necessary powers and duties, except that the commission shall</u> <u>delegate to the administrator of the commission, as provided in</u> <u>section 3304.14 of the Revised Code, the power and duty to</u> <u>administer the daily operation and provision of vocational</u> <u>rehabilitation services;</u> | 23457 23458 23459 23460 23461 23462 |

(K) May take any other necessary or appropriate action for cooperation with public and private agencies and organizations which may include: 23463
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(1) Reciprocal agreements with other states to provide for the vocational rehabilitation of individuals within the states concerned; 23466
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(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; 23469
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(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; 23473
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(4) Upon the designation of the governor, performing functions and services for the federal government relating to individuals under a physical or mental disability. 23481
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(L) ~~Shall comply with~~ May take any requirements appropriate action necessary to obtain federal funds in the maximum amount and most advantageous proportion possible-; 23484
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(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; 23487
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| (N) May plan, establish, and operate programs, facilities, and services relating to vocational rehabilitation; | 23494 23495 |
| (O) May accept and hold, invest, reinvest, or otherwise use gifts made for the purpose of furthering vocational rehabilitation; | 23496 23497 23498 |
| (P) May ameliorate the condition of the aged blind or other severely disabled individuals by establishing a program of home visitation by commission employees for the purpose of instruction; | 23499 23500 23501 |
| (Q) May establish and manage small business enterprises that are operated by persons with a substantial handicap to employment, including blind persons; | 23502 23503 23504 |
| (R) May purchase from insurance companies licensed to do business in this state any insurance deemed necessary by the commission for the efficient operation of a suitable vending facility as defined in division (A) of section 3304.28 of the Revised Code; | 23505 23506 23507 23508 23509 |
| (S) May accept directly from any state agency, and any state agency may transfer directly to the commission, surplus computers and computer equipment to be used for any purposes the commission considers appropriate, notwithstanding sections 125.12 to 125.14 of the Revised Code. | 23510 23511 23512 23513 23514 |
| Sec. 3304.181. If the total of all funds available from nonfederal sources to support the activities of the rehabilitation services commission does not comply with the expenditure requirements of 34 C.F.R. 361.60 and 361.62 for those activities or would cause the state to lose an allotment or fail to receive a reallotment under 34 C.F.R. 361.65, the commission shall <u>may</u> solicit additional funds from, and enter into agreements for the use of those funds with, private or public entities, including local government entities of this state. The commission shall <u>may</u> | 23515 23516 23517 23518 23519 23520 23521 23522 23523 |

continue to solicit additional funds and enter into agreements 23524
until the total funding available is sufficient for the commission 23525
to receive federal funds at the maximum amount and in the most 23526
advantageous proportion possible. 23527

Any agreement entered into between the commission and a 23528
private or public entity to provide funds under this section shall 23529
be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the 23530
Revised Code. 23531

Sec. 3304.182. Any agreement between the rehabilitation 23532
services commission and a private or public entity providing funds 23533
under section 3304.181 of the Revised Code may permit the 23534
commission to receive a specified percentage of the funds, but the 23535
percentage shall be not more than twenty-five per cent of the 23536
total funds available under the agreement. ~~The agreement shall not~~ 23537
~~be for less than six months or be discontinued by the commission~~ 23538
~~without the commission first providing three months notice of~~ 23539
~~intent to discontinue the agreement.~~ The commission may terminate 23540
an agreement only at any time for good just cause. It may 23541
terminate an agreement for any other reason by giving at least 23542
thirty days' notice to the public or private entity. 23543

Any services provided under an agreement entered into under 23544
section 3304.181 of the Revised Code shall be provided by a person 23545
or government entity that meets the accreditation standards 23546
established in rules adopted by the commission under section 23547
3304.16 of the Revised Code. 23548

Sec. 3305.01. As used in this chapter: 23549

(A) "Public institution of higher education" means a state 23550
university as defined in section 3345.011 of the Revised Code, the 23551
northeast Ohio medical university, or a university branch, 23552
technical college, state community college, community college, or 23553

municipal university established or operating under Chapter 3345., 23554
3349., 3354., 3355., 3357., or 3358. of the Revised Code. 23555

(B) "State retirement system" means the public employees 23556
retirement system created under Chapter 145. of the Revised Code, 23557
the state teachers retirement system created under Chapter 3307. 23558
of the Revised Code, or the school employees retirement system 23559
created under Chapter 3309. of the Revised Code. 23560

(C) "Eligible employee" means any person employed as a 23561
full-time employee of a public institution of higher education. 23562

In all cases of doubt, the board of trustees of the public 23563
institution of higher education shall determine whether any person 23564
is an eligible employee for purposes of this chapter, and the 23565
board's decision shall be final. 23566

(D) "Electing employee" means any eligible employee who 23567
elects, pursuant to section 3305.05 or 3305.051 of the Revised 23568
Code, to participate in an alternative retirement plan provided 23569
pursuant to this chapter or an eligible employee who is required 23570
to participate in an alternative retirement plan pursuant to 23571
division (C)~~(4)~~(3) of section 3305.05 or division (F) of section 23572
3305.051 of the Revised Code. 23573

(E) "Compensation," for purposes of an electing employee, has 23574
the same meaning as the applicable one of the following: 23575

(1) If the electing employee would be subject to Chapter 145. 23576
of the Revised Code had the employee not made an election pursuant 23577
to section 3305.05 or 3305.051 of the Revised Code, "earnable 23578
salary" as defined in division (R) of section 145.01 of the 23579
Revised Code; 23580

(2) If the electing employee would be subject to Chapter 23581
3307. of the Revised Code had the employee not made an election 23582
pursuant to section 3305.05 or 3305.051 of the Revised Code, 23583
"compensation" as defined in division (L) of section 3307.01 of 23584

the Revised Code; 23585

(3) If the electing employee would be subject to Chapter 23586
3309. of the Revised Code had the employee not made an election 23587
pursuant to section 3305.05 or 3305.051 of the Revised Code, 23588
"compensation" as defined in division (V) of section 3309.01 of 23589
the Revised Code. 23590

(F) "~~Provider~~ Vendor" means an entity designated under 23591
section 3305.03 of the Revised Code as eligible to be a provider 23592
of investment options for an alternative retirement plan. 23593

(G) "Provider" means, with respect to each public institution 23594
of higher education, a vendor that has entered into an agreement 23595
with that public institution of higher education in accordance 23596
with section 3305.04 of the Revised Code. 23597

Sec. 3305.02. An alternative retirement program is hereby 23598
established in accordance with this chapter for the purpose of 23599
providing to eligible employees the opportunity of participating 23600
in an alternative retirement plan as an alternative to 23601
participating in a state retirement system. The employer is the 23602
sponsor of each alternative retirement plan offered under this 23603
chapter. 23604

Each alternative retirement plan offered under this program 23605
shall be a defined contribution plan qualified under section 401 23606
(a) of the Internal Revenue Code that provides retirement and, to 23607
the extent applicable, death benefits through investment options. 23608
The options shall be offered to electing employees pursuant to 23609
trust or custodial accounts or pursuant to group or individual 23610
annuity contracts, and certificates issued under group contracts, 23611
and. The options may include life insurance, annuities, variable 23612
annuities, regulated investment trusts, pooled investment funds, 23613
or other forms of investment, at the option of each electing 23614
employee. 23615

Notwithstanding this chapter, any retirement plan established 23616
by a public institution of higher education prior to March 31, 23617
1997, as an alternative to participating in any state retirement 23618
system may continue in effect and be modified without regard to 23619
this chapter for all employees at the public institution eligible 23620
to participate in the plan. 23621

Sec. 3305.03. (A) ~~The department of insurance~~ Ohio board of 23622
regents shall designate ~~three or more~~ the entities that are 23623
eligible to provide investment options under alternative 23624
retirement plans ~~established~~ maintained by public institutions of 23625
higher education ~~in accordance with this chapter. An entity shall~~ 23626
~~be designated a provider under this section if the entity meets.~~ 23627
The board shall accept and review applications from entities 23628
seeking designation as a vendor. The board shall not designate an 23629
entity as a vendor unless the entity meets the requirements 23630
described in division (B) of this section. 23631

(B) To be eligible for designation as a vendor, an entity 23632
must meet both of the following requirements: 23633

(1) ~~It is~~ The entity must be authorized to conduct business 23634
in this state with regard to the investment options to be offered 23635
under an alternative retirement plan ~~maintained by a public~~ 23636
institution of higher education. 23637

(2) ~~It provides~~ The entity must offer the same or similar 23638
investment options ~~to be offered~~ under alternative retirement 23639
plans, ~~as group or individual contracts, or a combination thereof,~~ 23640
optional retirement plans, or similar types of plans with respect 23641
to which all of the following apply: 23642

(a) The plans are defined contribution plans that are 23643
qualified plans under Internal Revenue Code 401(a) or 403(b). 23644

(b) The plans are maintained by institutions of higher 23645

education in at least ten other states. 23646

~~(B)(c) The plans are established as primary retirement plans~~ 23647
~~that are alternatives to or a component of the applicable state~~ 23648
~~retirement system.~~ 23649

~~(C) In designating a provider under this section determining~~ 23650
~~whether to designate an entity as a vendor, the department of~~ 23651
~~insurance board of regents shall identify, consider, and evaluate~~ 23652
all of the following: 23653

(1) The experience of the ~~provider~~ entity in providing in 23654
other states investment options under alternative retirement 23655
~~programs in other states plans, optional retirement plans, or~~ 23656
similar types of plans that meet the requirements of division 23657
(B)(2) of this section; 23658

(2) The potential effectiveness of the ~~provider~~ entity in 23659
recruiting eligible employees to ~~enter into contracts~~ select that 23660
entity for purposes of participating in an alternative retirement 23661
plan and in retaining those ~~contracts~~ employees' accounts; 23662

(3) Whether the entity intends to offer a broad range of 23663
investment options to the electing employees; 23664

(4) The suitability of the investment options to the needs 23665
and interests of the electing employees and their beneficiaries; 23666

(5) The capability of the entity to offer sufficient 23667
information to the electing employees and their beneficiaries to 23668
make informed decisions with regard to investment options offered 23669
by the entity; 23670

(6) The capability of the entity to perform in a manner that 23671
is in the best interests of the electing employees and their 23672
beneficiaries; 23673

(7) The fees and expenses associated with the entity's 23674
investment options and the manner in which the entity intends to 23675

disclose those fees and expenses; 23676

~~(8)~~ The nature and extent of the rights and benefits to be provided under the investment options; 23677
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~~(4)~~ The relationship between the rights and benefits under the investment options and the amount of the contributions made under those options; 23679
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~~(5)~~ The suitability of the rights and benefits under the investment options to the needs and interests of eligible employees; 23682
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~~(6)~~(9) The capability of the provider entity to provide the rights and benefits under the investment options; 23685
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~~(7)~~(10) Comments submitted by a public institution of higher education under section 3305.031 of the Revised Code; 23687
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~~(11)~~ Any other matters ~~it~~ the board of regents considers relevant. 23689
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~~(C)~~(D) The ~~department of insurance~~ board of regents shall periodically review conduct periodic reviews of each ~~provider entity~~ designated under ~~division (A) of this section~~ as a vendor and the investment options being offered to ensure that the requirements and purposes of this chapter are being met. ~~If the department~~ The reviews of a vendor shall occur not less frequently than once every three years. 23691
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If it finds that the ~~provider~~ vendor is not in compliance with ~~any requirement~~ the requirements of this chapter or the ~~provider~~ vendor is not satisfactorily meeting the purposes of this chapter, the ~~department may~~ board shall rescind the ~~provider's~~ vendor's designation. 23698
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~~(D)~~(E) Notwithstanding sections 125.01 to 125.11 of the Revised Code, designation of a ~~provider~~ vendor or the execution of any ~~contract~~ agreement under this chapter is not subject to 23703
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competitive bidding under those sections. 23706

Sec. 3305.031. (A) As part of the process established under 23707
section 3305.03 of the Revised Code for designating an entity as a 23708
vendor and conducting periodic reviews of a vendor, the Ohio board 23709
of regents shall do all of the following: 23710

(1) Provide written notice to each public institution of 23711
higher education that an entity has applied to be designated as a 23712
vendor under section 3305.03 of the Revised Code; 23713

(2) Provide written notice to each public institution of 23714
higher education that a vendor is scheduled for a review; 23715

(3) Establish a comment period of not less than thirty days 23716
during which a public institution of higher education is 23717
authorized to comment about an entity's application for 23718
designation or a vendor's review and to request a meeting with the 23719
board of regents concerning the application or review; 23720

(4) Not later than fourteen days after the board makes a 23721
decision with respect to an application or review, including any 23722
rescission of a vendor's designation, provide written notice to 23723
each public institution of higher education of the board's 23724
decision. 23725

(B) If a meeting is requested by a public institution of 23726
higher education under division (A)(3) of this section, the board 23727
of regents shall do all of the following: 23728

(1) Notify each public institution of higher education of the 23729
meeting and its time and place; 23730

(2) Hold the meeting not less than ten but not more than 23731
thirty days after the end of the comment period; 23732

(3) Continue to accept comments concerning the application or 23733
review, as applicable, until five business days after the meeting 23734
is held. 23735

(C) The board of regents shall adopt rules under section 3305.032 of the Revised Code specifying the method to be used by public institutions of higher education in submitting comments to the board concerning an application or review. 23736
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Sec. 3305.032. The Ohio board of regents shall adopt rules as the board considers necessary to carry out its duties and responsibilities under this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The rules may provide for fees to be charged providers by the board to cover administrative and marketing expenses of the board. 23740
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Sec. 3305.04. (A) The board of trustees of each public institution of higher education shall adopt an alternative retirement plan in accordance with this chapter. Each public institution of higher education shall enter into a contract with each provider designated pursuant to section 3305.03 of the Revised Code that is willing to provide investment options under an alternative retirement plan at that public institution. Each contract shall provide for termination of the contract if the provider ceases to be a designated provider. In 23746
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In accordance with this chapter, each board may perform such functions and provide as necessary for the administration of its alternative retirement plan. 23755
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(B)(1) In implementing the alternative retirement plan established by the board, the public institution of higher education shall develop agreements to be entered into with entities designated under section 3305.03 of the Revised Code as vendors. Each agreement shall include such terms and conditions as are determined by the public institution of higher education in its sole discretion. 23758
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(2) Except as provided in division (B)(3) of this section, 23765

the public institution of higher education shall enter into 23766
agreements with a minimum of four vendors or, if fewer than four 23767
vendors are available, with the number of vendors available. 23768

(3) Division (B)(2) of this section does not require a public 23769
institution of higher education to enter into an agreement with a 23770
vendor if either of the following is the case: 23771

(a) The vendor is not willing to provide investment options 23772
under the alternative retirement plan at that public institution. 23773

(b) The vendor is not willing to agree to the terms and 23774
conditions of the agreement. 23775

(4) After an agreement has been entered into, both of the 23776
following apply with respect to termination of the agreement with 23777
the provider: 23778

(a) The agreement shall be terminated if the provider ceases 23779
to be an entity designated as a vendor. 23780

(b) The agreement may be terminated if the provider fails to 23781
comply with the terms and conditions of such agreement. 23782

Sec. 3305.05. (A) As used in this section and section 23783
3305.051 of the Revised Code, "academic or administrative 23784
employee" means any full-time employee not receiving any benefit, 23785
allowance, or other payment granted on the employee's account from 23786
a state retirement system who, before ~~the effective date of this~~ 23787
~~section~~ August 1, 2005, met one of the following requirements: 23788

(1) The employee was a member of the faculty of a public 23789
institution of higher education. 23790

(2) The employee was a member of the administrative staff of 23791
a public institution of higher education serving in a position in 23792
the unclassified civil service pursuant to section 124.11 of the 23793
Revised Code. 23794

(3) If section 124.11 of the Revised Code did not apply to 23795
the public institution of higher education, the employee was a 23796
member of the administrative staff of a public institution of 23797
higher education serving in a position comparable to a position in 23798
the unclassified civil service. 23799

In all cases of doubt, the board of trustees of the public 23800
institution of higher education shall determine whether any person 23801
is an academic or administrative employee for purposes of this 23802
chapter, and the board's decision shall be final. 23803

(B)(1) Each person who, on ~~the effective date of this section~~ 23804
August 1, 2005, is an eligible employee of a public institution of 23805
higher education and has accrued less than five years of service 23806
credit in a state retirement system may, not later than one 23807
hundred twenty days after ~~the effective date of this section~~ 23808
August 1, 2005, make an election to participate in an alternative 23809
retirement plan available at the employing public institution, 23810
unless, prior to ~~the effective date of this section~~ August 1, 23811
2005, the person had an opportunity pursuant to former section 23812
3305.05 of the Revised Code to make such an election as an 23813
academic or administrative employee of that public institution of 23814
higher education. 23815

(2) An eligible employee whose employment with a public 23816
institution of higher education commences on or after ~~the~~ 23817
~~effective date of this section~~ August 1, 2005, may, not later than 23818
one hundred twenty days after the starting date of the employment, 23819
make an election to participate in an alternative retirement plan 23820
available at the employing public institution. 23821

(3) An eligible employee who, on or after ~~the effective date~~ 23822
~~of this section~~ August 1, 2005, terminates employment at one 23823
public institution of higher education and subsequently is 23824
employed by another public institution of higher education in a 23825
position for which an alternative retirement plan is available 23826

may, not later than one hundred twenty days after the starting 23827
date of the employment, elect to participate in an alternative 23828
retirement plan available at that public institution. 23829

(C)(1) An eligible employee who makes an election under 23830
division (B) of this section shall submit the election in writing 23831
to the designated officer of the employee's employing public 23832
institution of higher education. Once submitted, the election is 23833
irrevocable while the eligible employee continues to be employed 23834
by the public institution of higher education. Not later than ten 23835
days after the election becomes irrevocable, the officer shall 23836
file a certified copy of the election with the state retirement 23837
system to which, apart from the election, the employee's 23838
employment would be subject. 23839

Each public institution of higher education that employs a 23840
person eligible to make an election under division (B) of this 23841
section shall notify, in writing, ~~within ten days of the person's~~ 23842
~~employment,~~ the state retirement system that applies to that 23843
employment in the manner specified by that state retirement 23844
system. The notice shall include the person's name and address. 23845
The notice shall be given not later than ten days after the first 23846
date the person is on the institution's payroll. 23847

(2) Elections made under division (B) of this section take 23848
effect as follows: 23849

(a) An election under division (B)(1) of this section is 23850
effective as of the date on which the employee's election to 23851
participate in the alternative retirement plan becomes 23852
irrevocable. 23853

(b) An election under division (B)(2) or (3) of this section 23854
is effective as of the electing employee's starting date of 23855
employment. 23856

(3) An eligible employee's election under division (B) of 23857

this section applies to the employee's employment in all positions 23858
at that public institution, unless the employee terminates 23859
employment at the public institution and does not return to 23860
employment in any position at that public institution ~~prior to one~~ 23861
year for at least three hundred sixty-five days after the date of 23862
termination. 23863

(4) An eligible employee who makes an election under division 23864
(B) of this section is forever barred from claiming or purchasing 23865
service credit under any state retirement system for the period of 23866
employment while the election is in effect. 23867

(D)(1) An eligible employee who fails to make an election 23868
under division (B) of this section within the one-hundred-twenty 23869
day election period shall be deemed to have elected to participate 23870
in the state retirement system that applies to the employee's 23871
employment. 23872

(2) An eligible employee who fails to make an election under 23873
division (B) of this section shall not be permitted to make an 23874
election for employment in any other position at the public 23875
institution of higher education while employed at that public 23876
institution, unless the employee terminates employment at the 23877
public institution and does not return to employment in any 23878
position at the public institution ~~prior to one year~~ for at least 23879
three hundred sixty-five days after the date of termination. 23880

Sec. 3305.053. The board of trustees of a public institution 23881
of higher education shall permit an employee who makes an election 23882
under section 3305.05 or 3305.051 of the Revised Code to do all of 23883
the following: 23884

(A) Select, from among the providers that have entered into a 23885
~~contract~~ an agreement with the public institution of higher 23886
education under section 3305.04 of the Revised Code, the provider 23887
of an investment option for that employee; 23888

(B) ~~Except as permitted under division (C) of this section,~~ 23889
~~contract with only one provider in any plan year;~~ 23890

~~(C) Change Subject to any terms and conditions established by~~ 23891
~~the public institution of higher education, change the provider~~ 23892
~~selected under division (A) of this section at the following~~ 23893
~~times:~~ 23894

~~(1) Once during the first payroll period in any plan year;~~ 23895

~~(2) Any time the provider that the employee selected ceases,~~ 23896
~~under division (C) of section 3305.03 of the Revised Code, to be~~ 23897
~~designated any time during the plan year.~~ 23898

~~(D)~~(C) If under division ~~(C)~~(B) of this section an employee 23899
changes providers, the employee may direct the provider ~~shall to~~ 23900
transfer to the new provider the employee's account balance either 23901
in whole or in part, as directed by the employee, except that the 23902
provider is not required to immediately transfer any part of the 23903
account invested at the employee's election in a fixed annuity 23904
account if the contract with the employee under which the 23905
investment was made permits the provider to make such a transfer 23906
over a period of time not exceeding ten years and the contract was 23907
filed with and approved by the department of insurance pursuant to 23908
section 3911.011 of the Revised Code. 23909

Sec. 3305.06. (A) Each electing employee shall contribute an 23910
amount, which shall be a certain percentage of the employee's 23911
compensation, to the provider of the investment option the 23912
employee has selected. This percentage shall be the percentage the 23913
electing employee would have otherwise been required to contribute 23914
to the state retirement system that applies to the employee's 23915
position, except that the percentage shall not be less than three 23916
per cent. Employee contributions under this division may be 23917
treated as employer contributions in accordance with Internal 23918
Revenue Code 414(h). 23919

(B) Each public institution of higher education employing an electing employee shall contribute a percentage of the employee's compensation to the provider of the investment option the employee has selected. This percentage shall be equal to the percentage that the public institution of higher education would otherwise contribute on behalf of that employee to the state retirement system that would otherwise cover that employee's position, less the percentage contributed by the public institution of higher education under division (D) of this section.

(C)(1) In no event shall the amount contributed by the electing employee pursuant to division (A) of this section and on the electing employee's behalf pursuant to division (B) of this section be less than the amount necessary to qualify the plan as a state retirement system pursuant to Internal Revenue Code 3121(B)(b)(7) and the regulations adopted thereunder.

(2) The full amount of the electing employee's contribution under division (A) of this section and the full amount of the employer's contribution made on behalf of that employee under division (B) of this section shall be paid to the appropriate provider for application to the electing employee's investment option.

(D) Each public institution of higher education employing an electing employee shall contribute on behalf of that employee to the state retirement system that otherwise applies to the electing employee's position a percentage of the electing employee's compensation to mitigate any negative financial impact of the alternative retirement program on the state retirement system. The percentage shall be six per cent, except that the percentage may be adjusted by the Ohio retirement study council to reflect the determinations made by actuarial studies conducted under section 171.07 of the Revised Code. Any adjustment shall become effective on the first day of the second month following submission of the

actuarial study to the Ohio board of regents under section 171.07 23952
of the Revised Code. 23953

Contributions on behalf of an electing employee shall 23954
continue in accordance with this division until the occurrence of 23955
the following: 23956

(1) If the electing employee would be subject to Chapter 145. 23957
of the Revised Code had the employee not made an election pursuant 23958
to section 3305.05 or 3305.051 of the Revised Code, until the 23959
unfunded actuarial accrued liability for all benefits, except 23960
health care benefits provided under section 145.325 or 145.58 of 23961
the Revised Code and benefit increases provided after March 31, 23962
1997, is fully amortized, as determined by the annual actuarial 23963
valuation prepared under section 145.22 of the Revised Code; 23964

(2) If the electing employee would be subject to Chapter 23965
3307. of the Revised Code had the employee not made an election 23966
pursuant to section 3305.05 or 3305.051 of the Revised Code, until 23967
the unfunded actuarial accrued liability for all benefits, except 23968
health care benefits provided under section 3307.39 or 3307.61 of 23969
the Revised Code and benefit increases provided after March 31, 23970
1997, is fully amortized, as determined by the annual actuarial 23971
valuation prepared under section 3307.51 of the Revised Code; 23972

(3) If the electing employee would be subject to Chapter 23973
3309. of the Revised Code had the employee not made an election 23974
pursuant to section 3305.05 or 3305.051 of the Revised Code, until 23975
the unfunded actuarial accrued liability for all benefits, except 23976
health care benefits provided under section 3309.375 or 3309.69 of 23977
the Revised Code and benefit increases provided after March 31, 23978
1997, is fully amortized, as determined by the annual actuarial 23979
valuation prepared under section 3309.21 of the Revised Code. 23980

Sec. 3313.603. (A) As used in this section: 23981

(1) "One unit" means a minimum of one hundred twenty hours of course instruction, except that for a laboratory course, "one unit" means a minimum of one hundred fifty hours of course instruction.

(2) "One-half unit" means a minimum of sixty hours of course instruction, except that for physical education courses, "one-half unit" means a minimum of one hundred twenty hours of course instruction.

(B) Beginning September 15, 2001, except as required in division (C) of this section and division (C) of section 3313.614 of the Revised Code, the requirements for graduation from every high school shall include twenty units earned in grades nine through twelve and shall be distributed as follows:

(1) English language arts, four units;

(2) Health, one-half unit;

(3) Mathematics, three units;

(4) Physical education, one-half unit;

(5) Science, two units until September 15, 2003, and three units thereafter, which at all times shall include both of the following:

(a) Biological sciences, one unit;

(b) Physical sciences, one unit.

(6) Social studies, three units, which shall include both of the following:

(a) American history, one-half unit;

(b) American government, one-half unit.

(7) Elective units, seven units until September 15, 2003, and six units thereafter.

Each student's electives shall include at least one unit, or

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|--|-------|
| two half units, chosen from among the areas of | 24011 |
| business/technology, fine arts, and/or foreign language. | 24012 |
| (C) Beginning with students who enter ninth grade for the | 24013 |
| first time on or after July 1, 2010, except as provided in | 24014 |
| divisions (D) to (F) of this section, the requirements for | 24015 |
| graduation from every public and chartered nonpublic high school | 24016 |
| shall include twenty units that are designed to prepare students | 24017 |
| for the workforce and college. The units shall be distributed as | 24018 |
| follows: | 24019 |
| (1) English language arts, four units; | 24020 |
| (2) Health, one-half unit, which shall include instruction in | 24021 |
| nutrition and the benefits of nutritious foods and physical | 24022 |
| activity for overall health; | 24023 |
| (3) Mathematics, four units, which shall include one unit of | 24024 |
| algebra II or the equivalent of algebra II; | 24025 |
| (4) Physical education, one-half unit; | 24026 |
| (5) Science, three units with inquiry-based laboratory | 24027 |
| experience that engages students in asking valid scientific | 24028 |
| questions and gathering and analyzing information, which shall | 24029 |
| include the following, or their equivalent: | 24030 |
| (a) Physical sciences, one unit; | 24031 |
| (b) Life sciences, one unit; | 24032 |
| (c) Advanced study in one or more of the following sciences, | 24033 |
| one unit: | 24034 |
| (i) Chemistry, physics, or other physical science; | 24035 |
| (ii) Advanced biology or other life science; | 24036 |
| (iii) Astronomy, physical geology, or other earth or space | 24037 |
| science. | 24038 |
| (6) Social studies, three units, which shall include both of | 24039 |

the following: 24040

(a) American history, one-half unit; 24041

(b) American government, one-half unit. 24042

Each school shall integrate the study of economics and 24043
financial literacy, as expressed in the social studies academic 24044
content standards adopted by the state board of education under 24045
division (A)(1) of section 3301.079 of the Revised Code and the 24046
academic content standards for financial literacy and 24047
entrepreneurship adopted under division (A)(2) of that section, 24048
into one or more existing social studies credits required under 24049
division (C)(6) of this section, or into the content of another 24050
class, so that every high school student receives instruction in 24051
those concepts. In developing the curriculum required by this 24052
paragraph, schools shall use available public-private partnerships 24053
and resources and materials that exist in business, industry, and 24054
through the centers for economics education at institutions of 24055
higher education in the state. 24056

(7) Five units consisting of one or any combination of 24057
foreign language, fine arts, business, career-technical education, 24058
family and consumer sciences, technology, agricultural education, 24059
a junior reserve officer training corps (JROTC) program approved 24060
by the congress of the United States under title 10 of the United 24061
States Code, or English language arts, mathematics, science, or 24062
social studies courses not otherwise required under division (C) 24063
of this section. 24064

Ohioans must be prepared to apply increased knowledge and 24065
skills in the workplace and to adapt their knowledge and skills 24066
quickly to meet the rapidly changing conditions of the 24067
twenty-first century. National studies indicate that all high 24068
school graduates need the same academic foundation, regardless of 24069
the opportunities they pursue after graduation. The goal of Ohio's 24070

system of elementary and secondary education is to prepare all 24071
students for and seamlessly connect all students to success in 24072
life beyond high school graduation, regardless of whether the next 24073
step is entering the workforce, beginning an apprenticeship, 24074
engaging in post-secondary training, serving in the military, or 24075
pursuing a college degree. 24076

The Ohio core curriculum is the standard expectation for all 24077
students entering ninth grade for the first time at a public or 24078
chartered nonpublic high school on or after July 1, 2010. A 24079
student may satisfy this expectation through a variety of methods, 24080
including, but not limited to, integrated, applied, 24081
career-technical, and traditional coursework. 24082

Whereas teacher quality is essential for student success in 24083
completing the Ohio core curriculum, the general assembly shall 24084
appropriate funds for strategic initiatives designed to strengthen 24085
schools' capacities to hire and retain highly qualified teachers 24086
in the subject areas required by the curriculum. Such initiatives 24087
are expected to require an investment of \$120,000,000 over five 24088
years. 24089

Stronger coordination between high schools and institutions 24090
of higher education is necessary to prepare students for more 24091
challenging academic endeavors and to lessen the need for academic 24092
remediation in college, thereby reducing the costs of higher 24093
education for Ohio's students, families, and the state. The state 24094
board and the chancellor of the Ohio board of regents shall 24095
develop policies to ensure that only in rare instances will 24096
students who complete the Ohio core curriculum require academic 24097
remediation after high school. 24098

School districts, community schools, and chartered nonpublic 24099
schools shall integrate technology into learning experiences 24100
across the curriculum in order to maximize efficiency, enhance 24101
learning, and prepare students for success in the 24102

technology-driven twenty-first century. Districts and schools 24103
shall use distance and web-based course delivery as a method of 24104
providing or augmenting all instruction required under this 24105
division, including laboratory experience in science. Districts 24106
and schools shall utilize technology access and electronic 24107
learning opportunities provided by the ~~eTech Ohio commission~~ 24108
department of education, the chancellor, the Ohio ~~learning network~~ 24109
technology consortium, education technology centers, public 24110
television stations, and other public and private providers. 24111

(D) Except as provided in division (E) of this section, a 24112
student who enters ninth grade on or after July 1, 2010, and 24113
before July 1, 2014, may qualify for graduation from a public or 24114
chartered nonpublic high school even though the student has not 24115
completed the Ohio core curriculum prescribed in division (C) of 24116
this section if all of the following conditions are satisfied: 24117

(1) After the student has attended high school for two years, 24118
as determined by the school, the student and the student's parent, 24119
guardian, or custodian sign and file with the school a written 24120
statement asserting the parent's, guardian's, or custodian's 24121
consent to the student's graduating without completing the Ohio 24122
core curriculum and acknowledging that one consequence of not 24123
completing the Ohio core curriculum is ineligibility to enroll in 24124
most state universities in Ohio without further coursework. 24125

(2) The student and parent, guardian, or custodian fulfill 24126
any procedural requirements the school stipulates to ensure the 24127
student's and parent's, guardian's, or custodian's informed 24128
consent and to facilitate orderly filing of statements under 24129
division (D)(1) of this section. 24130

(3) The student and the student's parent, guardian, or 24131
custodian and a representative of the student's high school 24132
jointly develop an individual career plan for the student that 24133
specifies the student matriculating to a two-year degree program, 24134

acquiring a business and industry credential, or entering an apprenticeship. 24135
24136

(4) The student's high school provides counseling and support 24137
for the student related to the plan developed under division 24138
(D)(3) of this section during the remainder of the student's high 24139
school experience. 24140

(5) The student successfully completes, at a minimum, the 24141
curriculum prescribed in division (B) of this section. 24142

The department ~~of education~~, in collaboration with the 24143
chancellor, shall analyze student performance data to determine if 24144
there are mitigating factors that warrant extending the exception 24145
permitted by division (D) of this section to high school classes 24146
beyond those entering ninth grade before July 1, 2014. The 24147
department shall submit its findings and any recommendations not 24148
later than August 1, 2014, to the speaker and minority leader of 24149
the house of representatives, the president and minority leader of 24150
the senate, the chairpersons and ranking minority members of the 24151
standing committees of the house of representatives and the senate 24152
that consider education legislation, the state board of education, 24153
and the superintendent of public instruction. 24154

(E) Each school district and chartered nonpublic school 24155
retains the authority to require an even more rigorous minimum 24156
curriculum for high school graduation than specified in division 24157
(B) or (C) of this section. A school district board of education, 24158
through the adoption of a resolution, or the governing authority 24159
of a chartered nonpublic school may stipulate any of the 24160
following: 24161

(1) A minimum high school curriculum that requires more than 24162
twenty units of academic credit to graduate; 24163

(2) An exception to the district's or school's minimum high 24164
school curriculum that is comparable to the exception provided in 24165

division (D) of this section but with additional requirements, 24166
which may include a requirement that the student successfully 24167
complete more than the minimum curriculum prescribed in division 24168
(B) of this section; 24169

(3) That no exception comparable to that provided in division 24170
(D) of this section is available. 24171

(F) A student enrolled in a dropout prevention and recovery 24172
program, which program has received a waiver from the department, 24173
may qualify for graduation from high school by successfully 24174
completing a competency-based instructional program administered 24175
by the dropout prevention and recovery program in lieu of 24176
completing the Ohio core curriculum prescribed in division (C) of 24177
this section. The department shall grant a waiver to a dropout 24178
prevention and recovery program, within sixty days after the 24179
program applies for the waiver, if the program meets all of the 24180
following conditions: 24181

(1) The program serves only students not younger than sixteen 24182
years of age and not older than twenty-one years of age. 24183

(2) The program enrolls students who, at the time of their 24184
initial enrollment, either, or both, are at least one grade level 24185
behind their cohort age groups or experience crises that 24186
significantly interfere with their academic progress such that 24187
they are prevented from continuing their traditional programs. 24188

(3) The program requires students to attain at least the 24189
applicable score designated for each of the assessments prescribed 24190
under division (B)(1) of section 3301.0710 of the Revised Code or, 24191
to the extent prescribed by rule of the state board under division 24192
(D)(6) of section 3301.0712 of the Revised Code, division (B)(2) 24193
of that section. 24194

(4) The program develops an individual career plan for the 24195
student that specifies the student's matriculating to a two-year 24196

degree program, acquiring a business and industry credential, or 24197
entering an apprenticeship. 24198

(5) The program provides counseling and support for the 24199
student related to the plan developed under division (F)(4) of 24200
this section during the remainder of the student's high school 24201
experience. 24202

(6) The program requires the student and the student's 24203
parent, guardian, or custodian to sign and file, in accordance 24204
with procedural requirements stipulated by the program, a written 24205
statement asserting the parent's, guardian's, or custodian's 24206
consent to the student's graduating without completing the Ohio 24207
core curriculum and acknowledging that one consequence of not 24208
completing the Ohio core curriculum is ineligibility to enroll in 24209
most state universities in Ohio without further coursework. 24210

(7) Prior to receiving the waiver, the program has submitted 24211
to the department an instructional plan that demonstrates how the 24212
academic content standards adopted by the state board under 24213
section 3301.079 of the Revised Code will be taught and assessed. 24214

If the department does not act either to grant the waiver or 24215
to reject the program application for the waiver within sixty days 24216
as required under this section, the waiver shall be considered to 24217
be granted. 24218

(G) Every high school may permit students below the ninth 24219
grade to take advanced work. If a high school so permits, it shall 24220
award high school credit for successful completion of the advanced 24221
work and shall count such advanced work toward the graduation 24222
requirements of division (B) or (C) of this section if the 24223
advanced work was both: 24224

(1) Taught by a person who possesses a license or certificate 24225
issued under section 3301.071, 3319.22, or 3319.222 of the Revised 24226
Code that is valid for teaching high school; 24227

(2) Designated by the board of education of the city, local, 24228
or exempted village school district, the board of the cooperative 24229
education school district, or the governing authority of the 24230
chartered nonpublic school as meeting the high school curriculum 24231
requirements. 24232

Each high school shall record on the student's high school 24233
transcript all high school credit awarded under division (G) of 24234
this section. In addition, if the student completed a seventh- or 24235
eighth-grade fine arts course described in division (K) of this 24236
section and the course qualified for high school credit under that 24237
division, the high school shall record that course on the 24238
student's high school transcript. 24239

(H) The department shall make its individual academic career 24240
plan available through its Ohio career information system web site 24241
for districts and schools to use as a tool for communicating with 24242
and providing guidance to students and families in selecting high 24243
school courses. 24244

(I) Units earned in English language arts, mathematics, 24245
science, and social studies that are delivered through integrated 24246
academic and career-technical instruction are eligible to meet the 24247
graduation requirements of division (B) or (C) of this section. 24248

(J) The state board, in consultation with the chancellor, 24249
shall adopt a statewide plan implementing methods for students to 24250
earn units of high school credit based on a demonstration of 24251
subject area competency, instead of or in combination with 24252
completing hours of classroom instruction. The state board shall 24253
adopt the plan not later than March 31, 2009, and commence phasing 24254
in the plan during the 2009-2010 school year. The plan shall 24255
include a standard method for recording demonstrated proficiency 24256
on high school transcripts. Each school district and community 24257
school shall comply with the state board's plan adopted under this 24258
division and award units of high school credit in accordance with 24259

the plan. The state board may adopt existing methods for earning 24260
high school credit based on a demonstration of subject area 24261
competency as necessary prior to the 2009-2010 school year. 24262

(K) This division does not apply to students who qualify for 24263
graduation from high school under division (D) or (F) of this 24264
section, or to students pursuing a career-technical instructional 24265
track as determined by the school district board of education or 24266
the chartered nonpublic school's governing authority. 24267
Nevertheless, the general assembly encourages such students to 24268
consider enrolling in a fine arts course as an elective. 24269

Beginning with students who enter ninth grade for the first 24270
time on or after July 1, 2010, each student enrolled in a public 24271
or chartered nonpublic high school shall complete two semesters or 24272
the equivalent of fine arts to graduate from high school. The 24273
coursework may be completed in any of grades seven to twelve. Each 24274
student who completes a fine arts course in grade seven or eight 24275
may elect to count that course toward the five units of electives 24276
required for graduation under division (C)(7) of this section, if 24277
the course satisfied the requirements of division (G) of this 24278
section. In that case, the high school shall award the student 24279
high school credit for the course and count the course toward the 24280
five units required under division (C)(7) of this section. If the 24281
course in grade seven or eight did not satisfy the requirements of 24282
division (G) of this section, the high school shall not award the 24283
student high school credit for the course but shall count the 24284
course toward the two semesters or the equivalent of fine arts 24285
required by this division. 24286

(L) Notwithstanding anything to the contrary in this section, 24287
the board of education of each school district and the governing 24288
authority of each chartered nonpublic school may adopt a policy to 24289
excuse from the high school physical education requirement each 24290
student who, during high school, has participated in 24291

interscholastic athletics, marching band, or cheerleading for at least two full seasons or in the junior reserve officer training corps for at least two full school years. If the board or authority adopts such a policy, the board or authority shall not require the student to complete any physical education course as a condition to graduate. However, the student shall be required to complete one-half unit, consisting of at least sixty hours of instruction, in another course of study. In the case of a student who has participated in the junior reserve officer training corps for at least two full school years, credit received for that participation may be used to satisfy the requirement to complete one-half unit in another course of study.

Sec. 3313.65. (A) As used in this section and section 3313.64 of the Revised Code:

(1) A person is "in a residential facility" if the person is a resident or a resident patient of an institution, home, or other residential facility that is:

(a) Licensed as a nursing home, residential care facility, or home for the aging by the director of health under section 3721.02 of the Revised Code;

~~(b) Licensed as an adult care facility by the director of mental health under sections 5119.70 to 5119.88 of the Revised Code;~~

~~(e)~~ Maintained as a county home or district home by the board of county commissioners or a joint board of county commissioners under Chapter 5155. of the Revised Code;

~~(d)~~(c) Operated or administered by a board of alcohol, drug addiction, and mental health services under section 340.03 or 340.06 of the Revised Code, or provides residential care pursuant to contracts made under section 340.03 or 340.033 of the Revised

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| Code; | 24322 |
| (e) (d) Maintained as a state institution for the mentally ill under Chapter 5119. of the Revised Code; | 24323 24324 |
| (f) (e) Licensed by the department of mental health under section 5119.20 or 5119.22 of the Revised Code; | 24325 24326 |
| (g) (f) Licensed as a residential facility by the department of developmental disabilities under section 5123.19 of the Revised Code; | 24327 24328 24329 |
| (h) (g) Operated by the veteran's administration or another agency of the United States government; | 24330 24331 |
| (i) (h) Operated by the Ohio veterans' home. | 24332 |
| (2) A person is "in a correctional facility" if any of the following apply: | 24333 24334 |
| (a) The person is an Ohio resident and is: | 24335 |
| (i) Imprisoned, as defined in section 1.05 of the Revised Code; | 24336 24337 |
| (ii) Serving a term in a community-based correctional facility or a district community-based correctional facility; | 24338 24339 |
| (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. | 24340 24341 24342 24343 24344 24345 24346 24347 24348 24349 24350 |
| (b) The person is imprisoned in a state correctional | 24351 |

institution of another state or a federal correctional institution 24352
but was an Ohio resident at the time the sentence was imposed for 24353
the crime for which the person is imprisoned. 24354

(3) A person is "in a juvenile residential placement" if the 24355
person is an Ohio resident who is under twenty-one years of age 24356
and has been removed, by the order of a juvenile court, from the 24357
place the person resided at the time the person became subject to 24358
the court's jurisdiction in the matter that resulted in the 24359
person's removal. 24360

(4) "Community control sanction" has the same meaning as in 24361
section 2929.01 of the Revised Code. 24362

(5) "Post-release control sanction" has the same meaning as 24363
in section 2967.01 of the Revised Code. 24364

(B) If the circumstances described in division (C) of this 24365
section apply, the determination of what school district must 24366
admit a child to its schools and what district, if any, is liable 24367
for tuition shall be made in accordance with this section, rather 24368
than section 3313.64 of the Revised Code. 24369

(C) A child who does not reside in the school district in 24370
which the child's parent resides and for whom a tuition obligation 24371
previously has not been established under division (C)(2) of 24372
section 3313.64 of the Revised Code shall be admitted to the 24373
schools of the district in which the child resides if at least one 24374
of the child's parents is in a residential or correctional 24375
facility or a juvenile residential placement and the other parent, 24376
if living and not in such a facility or placement, is not known to 24377
reside in this state. 24378

(D) Regardless of who has custody or care of the child, 24379
whether the child resides in a home, or whether the child receives 24380
special education, if a district admits a child under division (C) 24381
of this section, tuition shall be paid to that district as 24382

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| follows: | 24383 |
| (1) If the child's parent is in a juvenile residential placement, by the district in which the child's parent resided at the time the parent became subject to the jurisdiction of the juvenile court; | 24384 24385 24386 24387 |
| (2) If the child's parent is in a correctional facility, by the district in which the child's parent resided at the time the sentence was imposed; | 24388 24389 24390 |
| (3) If the child's parent is in a residential facility, by the district in which the parent resided at the time the parent was admitted to the residential facility, except that if the parent was transferred from another residential facility, tuition shall be paid by the district in which the parent resided at the time the parent was admitted to the facility from which the parent first was transferred; | 24391 24392 24393 24394 24395 24396 24397 |
| (4) In the event of a disagreement as to which school district is liable for tuition under division (C)(1), (2), or (3) of this section, the superintendent of public instruction shall determine which district shall pay tuition. | 24398 24399 24400 24401 |
| (E) If a child covered by division (D) of this section receives special education in accordance with Chapter 3323. of the Revised Code, the tuition shall be paid in accordance with section 3323.13 or 3323.14 of the Revised Code. Tuition for children who do not receive special education shall be paid in accordance with division (J) of section 3313.64 of the Revised Code. | 24402 24403 24404 24405 24406 24407 |
| Sec. 3313.71. School physicians may make examinations, which shall include tests to determine the existence of hearing defects, and diagnoses of all children referred to them. They may make such examination of teachers and other school employees and inspection of school buildings as in their opinion the protection of health | 24408 24409 24410 24411 24412 |

of the pupils, teachers, and other school employees requires. 24413

Boards of education shall require and provide, in accordance 24414
with section 3313.67 of the Revised Code, such tests and 24415
examinations for tuberculosis of pupils in selected grades and of 24416
school employees as may be required by the ~~Ohio public~~ director of 24417
health ~~council~~. 24418

Boards may require annual tuberculin tests of any grades. All 24419
pupils with positive reactions to the test shall have chest x-rays 24420
and all positive reactions and x-ray findings shall be reported 24421
promptly to the county record bureau of tuberculosis cases 24422
provided for in section 339.74 of the Revised Code. Boards shall 24423
waive the required test where a pupil presents a written statement 24424
from the pupil's family physician certifying that such test has 24425
been given and that such pupil is free from tuberculosis in a 24426
communicable stage, or that such test is inadvisable for medical 24427
reasons, or from the pupil's parent or guardian objecting to such 24428
test because of religious convictions. 24429

Whenever a pupil, teacher, or other school employee is found 24430
to be ill or suffering from tuberculosis in a communicable stage 24431
or other communicable disease, the school physician shall promptly 24432
send such pupil, teacher, or other school employee home, with a 24433
statement, in the case of a pupil, to the pupil's parents or 24434
guardian, briefly setting forth the discovered facts, and advising 24435
that the family physician be consulted. School physicians shall 24436
keep accurate card-index records of all examinations, and said 24437
records, that they may be uniform throughout the state, shall be 24438
according to the form prescribed by the state board of education, 24439
and the reports shall be made according to the method of said 24440
form. If the parent or guardian of any pupil or any teacher or 24441
other school employee, after notice from the board of education, 24442
furnishes within two weeks thereafter the written certificate of 24443
any reputable physician that the pupil, teacher, or other school 24444

employee has been examined, in such cases the service of the 24445
school physician shall be dispensed with, and such certificate 24446
shall be furnished by such parent or guardian, as required by the 24447
board of education. Such individual records shall not be open to 24448
the public and shall be solely for the use of the boards of 24449
education and boards of health officer. If any teacher or other 24450
school employee is found to have tuberculosis in a communicable 24451
stage or other communicable disease, the teacher's or employee's 24452
employment shall be discontinued or suspended upon such terms as 24453
to salary as the board deems just until the school physician has 24454
certified to a recovery from such disease. The methods of making 24455
the tuberculin tests and chest x-rays required by this section 24456
shall be such as are approved by the director of health. 24457

Sec. 3313.976. (A) No private school may receive scholarship 24458
payments from parents pursuant to section 3313.979 of the Revised 24459
Code until the chief administrator of the private school registers 24460
the school with the superintendent of public instruction. The 24461
state superintendent shall register any school that meets the 24462
following requirements: 24463

(1) The school is located within the boundaries of the pilot 24464
project school district; 24465

(2) The school indicates in writing its commitment to follow 24466
all requirements for a state-sponsored scholarship program 24467
specified under sections 3313.974 to 3313.979 of the Revised Code, 24468
including, but not limited to, the requirements for admitting 24469
students pursuant to section 3313.977 of the Revised Code; 24470

(3) The school meets all state minimum standards for 24471
chartered nonpublic schools in effect on July 1, 1992, except that 24472
the state superintendent at the superintendent's discretion may 24473
register nonchartered nonpublic schools meeting the other 24474
requirements of this division; 24475

- (4) The school does not discriminate on the basis of race, religion, or ethnic background; 24476
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- (5) The school enrolls a minimum of ten students per class or a sum of at least twenty-five students in all the classes offered; 24478
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- (6) The school does not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion; 24480
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- (7) The school does not provide false or misleading information about the school to parents, students, or the general public; 24483
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- (8) For students in grades kindergarten through eight with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5104.46 of the Revised Code, the school agrees not to charge any tuition ~~to low income families receiving ninety per cent of the scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code,~~ in excess of ten per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. ~~The school shall permit any such tuition, at the discretion of the parent, to be satisfied by the low income family's provision of in-kind contributions or services.~~ 24486
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- (9) For students in grades kindergarten through eight with family incomes above two hundred per cent of the federal poverty guidelines, whose scholarship amounts are less than the actual tuition charge of the school, the school agrees not to charge any tuition ~~to low income families receiving a seventy five per cent scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code,~~ in excess of the difference between the actual tuition charge of the school and 24499
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~~seventy five per cent of the scholarship amount established~~ 24507
pursuant to division (C)(1) of section 3313.978 of the Revised 24508
Code, excluding any increase described in division (C)(2) of that 24509
section. The school shall permit such tuition, at the discretion 24510
of the parent, to be satisfied by the ~~low income~~ family's 24511
provision of in-kind contributions or services. 24512

(10) The school agrees not to charge any tuition to families 24513
of students in grades nine through twelve receiving a scholarship 24514
in excess of the actual tuition charge of the school less 24515
~~seventy five or ninety per cent of the scholarship amount~~ 24516
established pursuant to division (C)(1) of section 3313.978 of the 24517
Revised Code, ~~as applicable~~, excluding any increase described in 24518
division (C)(2) of that section. 24519

(11) Notwithstanding division (K) of section 3301.0711 of the 24520
Revised Code, the school annually administers the assessments 24521
prescribed by section 3301.0710 of the Revised Code to each 24522
scholarship student enrolled in the school in accordance with 24523
section 3301.0711 of the Revised Code and reports to the 24524
department of education the results of each such assessment 24525
administered to each scholarship student. 24526

(B) The state superintendent shall revoke the registration of 24527
any school if, after a hearing, the superintendent determines that 24528
the school is in violation of any of the provisions of division 24529
(A) of this section. 24530

(C) Any public school located in a school district adjacent 24531
to the pilot project district may receive scholarship payments on 24532
behalf of parents pursuant to section 3313.979 of the Revised Code 24533
if the superintendent of the district in which such public school 24534
is located notifies the state superintendent prior to the first 24535
day of March that the district intends to admit students from the 24536
pilot project district for the ensuing school year pursuant to 24537
section 3327.06 of the Revised Code. 24538

(D) Any parent wishing to purchase tutorial assistance from 24539
any person or governmental entity pursuant to the pilot project 24540
program under sections 3313.974 to 3313.979 of the Revised Code 24541
shall apply to the state superintendent. The state superintendent 24542
shall approve providers who appear to possess the capability of 24543
furnishing the instructional services they are offering to 24544
provide. 24545

Sec. 3313.978. (A) Annually by the first day of November, the 24546
superintendent of public instruction shall notify the pilot 24547
project school district of the number of initial scholarships that 24548
the state superintendent will be awarding in each of grades 24549
kindergarten through twelve. 24550

The state superintendent shall provide information about the 24551
scholarship program to all students residing in the district, 24552
shall accept applications from any such students until such date 24553
as shall be established by the state superintendent as a deadline 24554
for applications, and shall establish criteria for the selection 24555
of students to receive scholarships from among all those applying 24556
prior to the deadline, which criteria shall give preference to 24557
students from low-income families. ~~For each student selected, the~~ 24558
~~state superintendent shall also determine whether the student~~ 24559
~~qualifies for seventy five or ninety per cent of the scholarship~~ 24560
~~amount. Students whose family income is at or above two hundred~~ 24561
~~per cent of the maximum income level established by the state~~ 24562
~~superintendent for low income families shall qualify for~~ 24563
~~seventy five per cent of the scholarship amount and students whose~~ 24564
~~family income is below two hundred per cent of that maximum income~~ 24565
~~level shall qualify for ninety per cent of the scholarship amount.~~ 24566
The state superintendent shall notify students of their selection 24567
prior to the fifteenth day of January ~~and whether they qualify for~~ 24568
~~seventy five or ninety per cent of the scholarship amount.~~ 24569

(1) A student receiving a pilot project scholarship may 24570
utilize it at an alternative public school by notifying the 24571
district superintendent, at any time before the beginning of the 24572
school year, of the name of the public school in an adjacent 24573
school district to which the student has been accepted pursuant to 24574
section 3327.06 of the Revised Code. 24575

(2) A student may decide to utilize a pilot project 24576
scholarship at a registered private school in the district if all 24577
of the following conditions are met: 24578

(a) By the fifteenth day of February of the preceding school 24579
year, or at any time prior to the start of the school year, the 24580
parent makes an application on behalf of the student to a 24581
registered private school. 24582

(b) The registered private school notifies the parent and the 24583
state superintendent as follows that the student has been 24584
admitted: 24585

(i) By the fifteenth day of March of the preceding school 24586
year if the student filed an application by the fifteenth day of 24587
February and was admitted by the school pursuant to division (A) 24588
of section 3313.977 of the Revised Code; 24589

(ii) Within one week of the decision to admit the student if 24590
the student is admitted pursuant to division (C) of section 24591
3313.977 of the Revised Code. 24592

(c) The student actually enrolls in the registered private 24593
school to which the student was first admitted or in another 24594
registered private school in the district or in a public school in 24595
an adjacent school district. 24596

(B) The state superintendent shall also award in any school 24597
year tutorial assistance grants to a number of students equal to 24598
the number of students who receive scholarships under division (A) 24599
of this section. Tutorial assistance grants shall be awarded 24600

solely to students who are enrolled in the public schools of the 24601
district in a grade level covered by the pilot project. Tutorial 24602
assistance grants may be used solely to obtain tutorial assistance 24603
from a provider approved pursuant to division (D) of section 24604
3313.976 of the Revised Code. 24605

All students wishing to obtain tutorial assistance grants 24606
shall make application to the state superintendent by the first 24607
day of the school year in which the assistance will be used. The 24608
state superintendent shall award assistance grants in accordance 24609
with criteria the superintendent shall establish. ~~For each student~~ 24610
~~awarded a grant, the state superintendent shall also determine~~ 24611
~~whether the student qualifies for seventy five or ninety per cent~~ 24612
~~of the grant amount and so notify the student. Students whose~~ 24613
~~family income is at or above two hundred per cent of the maximum~~ 24614
~~income level established by the state superintendent for~~ 24615
~~low income families shall qualify for seventy five per cent of the~~ 24616
~~grant amount and students whose family income is below two hundred~~ 24617
~~per cent of that maximum income level shall qualify for ninety per~~ 24618
~~cent of the grant amount.~~ 24619

(C)(1) In the case of basic scholarships for students in 24620
grades kindergarten through eight, the scholarship amount shall 24621
not exceed the lesser of the tuition charges of the alternative 24622
school the scholarship recipient attends or three thousand dollars 24623
before fiscal year 2007, three thousand four hundred fifty dollars 24624
in fiscal year 2007 through fiscal year 2011, and four thousand 24625
two hundred fifty dollars in fiscal year 2012 and thereafter. 24626

In the case of basic scholarships for students in grades nine 24627
through twelve, the scholarship amount shall not exceed the lesser 24628
of the tuition charges of the alternative school the scholarship 24629
recipient attends or two thousand seven hundred dollars before 24630
fiscal year 2007, three thousand four hundred fifty dollars in 24631
fiscal year 2007 through fiscal year 2011, and five thousand 24632

dollars in fiscal year 2012 and thereafter. 24633

(2) The state superintendent shall provide for an increase in 24634
the basic scholarship amount in the case of any student who is a 24635
mainstreamed student with a disability and shall further increase 24636
such amount in the case of any separately educated student with a 24637
disability. Such increases shall take into account the 24638
instruction, related services, and transportation costs of 24639
educating such students. 24640

(3) In the case of tutorial assistance grants, the grant 24641
amount shall not exceed the lesser of the provider's actual 24642
charges for such assistance or: 24643

(a) Before fiscal year 2007, a percentage established by the 24644
state superintendent, not to exceed twenty per cent, of the amount 24645
of the pilot project school district's average basic scholarship 24646
amount; 24647

(b) In fiscal year 2007 and thereafter, four hundred dollars. 24648

~~(4) No scholarship or tutorial assistance grant shall be 24649
awarded unless the state superintendent determines that 24650
twenty five or ten per cent, as applicable, of the amount 24651
specified for such scholarship or grant pursuant to division 24652
(C)(1), (2), or (3) of this section will be furnished by a 24653
political subdivision, a private nonprofit or for profit entity, 24654
or another person. Only seventy five or ninety per cent of such 24655
amounts, as applicable, shall be paid from state funds pursuant to 24656
section 3313.979 of the Revised Code. 24657~~

(D)(1) Annually by the first day of November, the state 24658
superintendent shall estimate the maximum per-pupil scholarship 24659
amounts for the ensuing school year. The state superintendent 24660
shall make this estimate available to the general public at the 24661
offices of the district board of education together with the forms 24662
required by division (D)(2) of this section. 24663

(2) Annually by the fifteenth day of January, the chief administrator of each registered private school located in the pilot project district and the principal of each public school in such district shall complete a parental information form and forward it to the president of the board of education. The parental information form shall be prescribed by the department of education and shall provide information about the grade levels offered, the numbers of students, tuition amounts, achievement test results, and any sectarian or other organizational affiliations.

(E)(1) Only for the purpose of administering the pilot project scholarship program, the department may request from any of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any student who is seeking a scholarship under the program:

(a) The school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code;

(b) If applicable, the community school in which the student is enrolled;

(c) The independent contractor engaged to create and maintain data verification codes.

(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.

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.

(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.

(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.

(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 scores shall be aggregated as follows:

(a) By school district, which shall include all scholarship students residing in the pilot project school district who are enrolled in a registered private school and were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code;

(b) By registered private school, which shall include all scholarship students enrolled in that school who were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code.

(2) The department shall disaggregate the student performance

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| data described in division (G)(1) of this section according to the | 24726 |
| following categories: | 24727 |
| (a) Age; | 24728 |
| (b) Race and ethnicity; | 24729 |
| (c) Gender; | 24730 |
| (d) Students who have participated in the scholarship program | 24731 |
| for three or more years; | 24732 |
| (e) Students who have participated in the scholarship program | 24733 |
| for more than one year and less than three years; | 24734 |
| (f) Students who have participated in the scholarship program | 24735 |
| for one year or less; | 24736 |
| (g) Economically disadvantaged students. | 24737 |
| (3) The department shall post the student performance data | 24738 |
| required under divisions (G)(1) and (2) of this section on its web | 24739 |
| site and shall include that data in the information about the | 24740 |
| scholarship program provided to students under division (A) of | 24741 |
| this section. In reporting student performance data under this | 24742 |
| division, the department shall not include any data that is | 24743 |
| statistically unreliable or that could result in the | 24744 |
| identification of individual students. For this purpose, the | 24745 |
| department shall not report performance data for any group that | 24746 |
| contains less than ten students. | 24747 |
| (4) The department shall provide the parent of each | 24748 |
| scholarship student enrolled in a registered private school with | 24749 |
| information comparing the student's performance on the assessments | 24750 |
| administered pursuant to division (A)(11) of section 3313.976 of | 24751 |
| the Revised Code with the average performance of similar students | 24752 |
| enrolled in the building operated by the pilot project school | 24753 |
| district that the scholarship student would otherwise attend. In | 24754 |
| calculating the performance of similar students, the department | 24755 |

shall consider age, grade, race and ethnicity, gender, and 24756
socioeconomic status. 24757

Sec. 3313.979. Each scholarship to be used for payments to a 24758
registered private school is payable to the parents of the student 24759
entitled to the scholarship. Each scholarship to be used for 24760
payments to a public school in an adjacent school district is 24761
payable to the school district of attendance by the superintendent 24762
of public instruction. Each grant to be used for payments to an 24763
approved tutorial assistance provider is payable to the approved 24764
tutorial assistance provider. 24765

(A)(1) By the fifteenth day of each month of the school year 24766
that any scholarship students are enrolled in a registered private 24767
school, the chief administrator of that school shall notify the 24768
state superintendent of: 24769

(a) The number of scholarship students who were reported to 24770
the school district as having been admitted by that private school 24771
pursuant to division (A)(2)(b) of section 3313.978 of the Revised 24772
Code and who were still enrolled in the private school as of the 24773
first day of such month, ~~and the numbers of such students who~~ 24774
~~qualify for seventy five and ninety per cent of the scholarship~~ 24775
~~amount;~~ 24776

(b) The number of scholarship students who were reported to 24777
the school district as having been admitted by another private 24778
school pursuant to division (A)(2)(b) of section 3313.978 of the 24779
Revised Code and since the date of admission have transferred to 24780
the school providing the notification under division (A)(1) of 24781
this section, ~~and the numbers of such students who qualify for~~ 24782
~~seventy five and ninety per cent of the scholarship amount.~~ 24783

(2) From time to time, the state superintendent shall make a 24784
payment to the parent of each student entitled to a scholarship. 24785
Each payment shall include for each student reported under 24786

division (A)(1) of this section, a portion of ~~seventy five or~~ 24787
~~ninety per cent, as applicable,~~ of the scholarship amount 24788
specified in divisions (C)(1) and (2) of section 3313.978 of the 24789
Revised Code. This amount shall be proportionately reduced in the 24790
case of any such student who is not enrolled in a registered 24791
private school for the entire school year. 24792

(3) The first payment under this division shall be made by 24793
the last day of November and shall equal one-third of ~~seventy five~~ 24794
~~or ninety per cent, as applicable,~~ of the estimated total amount 24795
that will be due to the parent for the school year pursuant to 24796
division (A)(2) of this section. 24797

(B) The state superintendent, on behalf of the parents of a 24798
scholarship student enrolled in a public school in an adjacent 24799
school district pursuant to section 3327.06 of the Revised Code, 24800
shall make the tuition payments required by that section to the 24801
school district admitting the student, except that, 24802
notwithstanding sections 3323.13, 3323.14, and 3327.06 of the 24803
Revised Code, the total payments in any school year shall not 24804
exceed ~~seventy five or ninety per cent, as applicable,~~ of the 24805
scholarship amount provided in divisions (C)(1) and (2) of section 24806
3313.978 of the Revised Code. 24807

(C) Whenever an approved provider provides tutorial 24808
assistance to a student, the state superintendent shall pay the 24809
approved provider for such costs upon receipt of a statement 24810
specifying the services provided and the costs of the services, 24811
which statement shall be signed by the provider and verified by 24812
the chief administrator having supervisory control over the 24813
tutoring site. The total payments to any approved provider under 24814
this division for all provider services to any individual student 24815
in any school year shall not exceed ~~seventy five or ninety per~~ 24816
~~cent, as applicable,~~ of the grant amount provided in division 24817
(C)(3) of section 3313.978 of the Revised Code. 24818

Sec. 3314.074. Divisions (A) and (B) of this section apply 24819
only to the extent permitted under Chapter 1702. of the Revised 24820
Code. 24821

(A) If any community school established under this chapter 24822
permanently closes and ceases its operation as a community school, 24823
the assets of that school shall be distributed first to the 24824
retirement funds of employees of the school, employees of the 24825
school, and private creditors who are owed compensation, and then 24826
any remaining funds shall be paid to the department of education 24827
for redistribution to the school districts in which the students 24828
who were enrolled in the school at the time it ceased operation 24829
were entitled to attend school under section 3313.64 or 3313.65 of 24830
the Revised Code. The amount distributed to each school district 24831
shall be proportional to the district's share of the total 24832
enrollment in the community school. 24833

(B) If a community school closes and ceases to operate as a 24834
community school and the school has received computer hardware or 24835
software from the former Ohio SchoolNet commission or the former 24836
eTech Ohio commission, such hardware or software shall be ~~returned~~ 24837
turned over to the ~~eTech Ohio commission~~ department of education, 24838
~~and the eTech Ohio commission~~ which shall redistribute the 24839
hardware and software, to the extent such redistribution is 24840
possible, to school districts in conformance with the provisions 24841
of the programs operated and administered by the eTech Ohio 24842
commission. 24843

(C) If the assets of the school are insufficient to pay all 24844
persons or entities to whom compensation is owed, the 24845
prioritization of the distribution of the assets to individual 24846
persons or entities within each class of payees may be determined 24847
by decree of a court in accordance with this section and Chapter 24848
1702. of the Revised Code. 24849

Sec. 3317.06. Moneys paid to school districts under division 24850
(E) of section 3317.024 of the Revised Code shall be used for the 24851
following independent and fully severable purposes: 24852

(A) To purchase such secular textbooks or electronic 24853
textbooks as have been approved by the superintendent of public 24854
instruction for use in public schools in the state and to loan 24855
such textbooks or electronic textbooks to pupils attending 24856
nonpublic schools within the district or to their parents and to 24857
hire clerical personnel to administer such lending program. Such 24858
loans shall be based upon individual requests submitted by such 24859
nonpublic school pupils or parents. Such requests shall be 24860
submitted to the school district in which the nonpublic school is 24861
located. Such individual requests for the loan of textbooks or 24862
electronic textbooks shall, for administrative convenience, be 24863
submitted by the nonpublic school pupil or the pupil's parent to 24864
the nonpublic school, which shall prepare and submit collective 24865
summaries of the individual requests to the school district. As 24866
used in this section: 24867

(1) "Textbook" means any book or book substitute that a pupil 24868
uses as a consumable or nonconsumable text, text substitute, or 24869
text supplement in a particular class or program in the school the 24870
pupil regularly attends. 24871

(2) "Electronic textbook" means any book or book substitute 24872
that a student accesses through the use of a computer or other 24873
electronic medium or that is available through an internet-based 24874
provider of course content, or any other material that contributes 24875
to the learning process through electronic means. 24876

(B) To provide speech and hearing diagnostic services to 24877
pupils attending nonpublic schools within the district. Such 24878
service shall be provided in the nonpublic school attended by the 24879
pupil receiving the service. 24880

(C) To provide physician, nursing, dental, and optometric services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the nonpublic school pupil receiving the service.

(D) To provide diagnostic psychological services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the pupil receiving the service.

(E) To provide therapeutic psychological and speech and hearing services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(F) To provide guidance, counseling, and social work services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(G) To provide remedial services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(H) To supply for use by pupils attending nonpublic schools 24913
within the district such standardized tests and scoring services 24914
as are in use in the public schools of the state; 24915

(I) To provide programs for children who attend nonpublic 24916
schools within the district and are children with disabilities as 24917
defined in section 3323.01 of the Revised Code or gifted children. 24918
Such programs shall be provided in the public school, in nonpublic 24919
schools, in public centers, or in mobile units located on or off 24920
of the nonpublic premises. If such programs are provided in the 24921
public school or in public centers, transportation to and from 24922
such facilities shall be provided by the school district in which 24923
the nonpublic school is located. 24924

(J) To hire clerical personnel to assist in the 24925
administration of programs pursuant to divisions (B), (C), (D), 24926
(E), (F), (G), and (I) of this section and to hire supervisory 24927
personnel to supervise the providing of services and textbooks 24928
pursuant to this section. 24929

(K) To purchase or lease any secular, neutral, and 24930
nonideological computer application software designed to assist 24931
students in performing a single task or multiple related tasks, 24932
device management software, learning management software, 24933
site-licensing, digital video on demand (DVD), wide area 24934
connectivity and related technology as it relates to internet 24935
access, mathematics or science equipment and materials, 24936
instructional materials, and school library materials that are in 24937
general use in the public schools of the state and loan such items 24938
to pupils attending nonpublic schools within the district or to 24939
their parents, and to hire clerical personnel to administer the 24940
lending program. Only such items that are incapable of diversion 24941
to religious use and that are susceptible of loan to individual 24942
pupils and are furnished for the use of individual pupils shall be 24943
purchased and loaned under this division. As used in this section, 24944

"instructional materials" means prepared learning materials that 24945
are secular, neutral, and nonideological in character and are of 24946
benefit to the instruction of school children, ~~and may include~~ 24947
~~educational resources and services developed by the eTech Ohio~~ 24948
~~commission.~~ 24949

(L) To purchase or lease instructional equipment, including 24950
computer hardware and related equipment in general use in the 24951
public schools of the state, for use by pupils attending nonpublic 24952
schools within the district and to loan such items to pupils 24953
attending nonpublic schools within the district or to their 24954
parents, and to hire clerical personnel to administer the lending 24955
program. "Computer hardware and related equipment" includes 24956
desktop computers and workstations; laptop computers, computer 24957
tablets, and other mobile handheld devices; and their operating 24958
systems and accessories. 24959

(M) To purchase mobile units to be used for the provision of 24960
services pursuant to divisions (E), (F), (G), and (I) of this 24961
section and to pay for necessary repairs and operating costs 24962
associated with these units. 24963

(N) To reimburse costs the district incurred to store the 24964
records of a chartered nonpublic school that closes. 24965
Reimbursements under this division shall be made one time only for 24966
each chartered nonpublic school that closes. 24967

(O) To purchase life-saving medical or other emergency 24968
equipment for placement in nonpublic schools within the district 24969
or to maintain such equipment. 24970

Clerical and supervisory personnel hired pursuant to division 24971
(J) of this section shall perform their services in the public 24972
schools, in nonpublic schools, public centers, or mobile units 24973
where the services are provided to the nonpublic school pupil, 24974
except that such personnel may accompany pupils to and from the 24975

service sites when necessary to ensure the safety of the children 24976
receiving the services. 24977

All services provided pursuant to this section may be 24978
provided under contract with educational service centers, the 24979
department of health, city or general health districts, or private 24980
agencies whose personnel are properly licensed by an appropriate 24981
state board or agency. 24982

Transportation of pupils provided pursuant to divisions (E), 24983
(F), (G), and (I) of this section shall be provided by the school 24984
district from its general funds and not from moneys paid to it 24985
under division (E) of section 3317.024 of the Revised Code unless 24986
a special transportation request is submitted by the parent of the 24987
child receiving service pursuant to such divisions. If such an 24988
application is presented to the school district, it may pay for 24989
the transportation from moneys paid to it under division (E) of 24990
section 3317.024 of the Revised Code. 24991

No school district shall provide health or remedial services 24992
to nonpublic school pupils as authorized by this section unless 24993
such services are available to pupils attending the public schools 24994
within the district. 24995

Materials, equipment, computer hardware or software, 24996
textbooks, electronic textbooks, and health and remedial services 24997
provided for the benefit of nonpublic school pupils pursuant to 24998
this section and the admission of pupils to such nonpublic schools 24999
shall be provided without distinction as to race, creed, color, or 25000
national origin of such pupils or of their teachers. 25001

No school district shall provide services, materials, or 25002
equipment that contain religious content for use in religious 25003
courses, devotional exercises, religious training, or any other 25004
religious activity. 25005

As used in this section, "parent" includes a person standing 25006

in loco parentis to a child. 25007

Notwithstanding section 3317.01 of the Revised Code, payments 25008
shall be made under this section to any city, local, or exempted 25009
village school district within which is located one or more 25010
nonpublic elementary or high schools and any payments made to 25011
school districts under division (E) of section 3317.024 of the 25012
Revised Code for purposes of this section may be disbursed without 25013
submission to and approval of the controlling board. 25014

The allocation of payments for materials, equipment, 25015
textbooks, electronic textbooks, health services, and remedial 25016
services to city, local, and exempted village school districts 25017
shall be on the basis of the state board of education's estimated 25018
annual average daily membership in nonpublic elementary and high 25019
schools located in the district. 25020

Payments made to city, local, and exempted village school 25021
districts under this section shall be equal to specific 25022
appropriations made for the purpose. All interest earned by a 25023
school district on such payments shall be used by the district for 25024
the same purposes and in the same manner as the payments may be 25025
used. 25026

The department of education shall adopt guidelines and 25027
procedures under which such programs and services shall be 25028
provided, under which districts shall be reimbursed for 25029
administrative costs incurred in providing such programs and 25030
services, and under which any unexpended balance of the amounts 25031
appropriated by the general assembly to implement this section may 25032
be transferred to the auxiliary services personnel unemployment 25033
compensation fund established pursuant to section 4141.47 of the 25034
Revised Code. The department shall also adopt guidelines and 25035
procedures limiting the purchase and loan of the items described 25036
in division (K) of this section to items that are in general use 25037
in the public schools of the state, that are incapable of 25038

diversion to religious use, and that are susceptible to individual 25039
use rather than classroom use. Within thirty days after the end of 25040
each biennium, each board of education shall remit to the 25041
department all moneys paid to it under division (E) of section 25042
3317.024 of the Revised Code and any interest earned on those 25043
moneys that are not required to pay expenses incurred under this 25044
section during the biennium for which the money was appropriated 25045
and during which the interest was earned. If a board of education 25046
subsequently determines that the remittal of moneys leaves the 25047
board with insufficient money to pay all valid expenses incurred 25048
under this section during the biennium for which the remitted 25049
money was appropriated, the board may apply to the department of 25050
education for a refund of money, not to exceed the amount of the 25051
insufficiency. If the department determines the expenses were 25052
lawfully incurred and would have been lawful expenditures of the 25053
refunded money, it shall certify its determination and the amount 25054
of the refund to be made to the director of job and family 25055
services who shall make a refund as provided in section 4141.47 of 25056
the Revised Code. 25057

Each school district shall label materials, equipment, 25058
computer hardware or software, textbooks, and electronic textbooks 25059
purchased or leased for loan to a nonpublic school under this 25060
section, acknowledging that they were purchased or leased with 25061
state funds under this section. However, a district need not label 25062
materials, equipment, computer hardware or software, textbooks, or 25063
electronic textbooks that the district determines are consumable 25064
in nature or have a value of less than two hundred dollars. 25065

Sec. 3317.50. The ~~eTech-Ohio~~ telecommunity education fund is 25066
hereby created in the state treasury. The fund shall consist of 25067
certain excess local exchange telephone company contributions 25068
transferred from the reserve fund of the Ohio telecommunications 25069
advisory board pursuant to an agreement between the public 25070

utilities commission of Ohio and the Ohio department of education. 25071
The fund shall be used by the department of education and the 25072
chancellor of the Ohio board of regents, in the amounts 25073
appropriated, to finance technology grants to state-chartered 25074
elementary and secondary schools. Investment earnings of the fund 25075
shall be credited to the fund. 25076

Sec. 3317.51. (A) The distance learning fund is hereby 25077
created in the state treasury. The fund shall consist of moneys 25078
paid ~~to the eTech Ohio commission~~ by any telephone company as a 25079
part of a settlement agreement between such company and the public 25080
utilities commission in fiscal year 1995 in part to establish 25081
distance learning throughout the state. The ~~commission~~ chancellor 25082
of the Ohio board of regents shall administer the fund and expend 25083
moneys from it to finance technology grants to eligible schools 25084
chartered by the state board of education to establish distance 25085
learning in those schools. Chartered schools are eligible for 25086
funds if they are within the service area of the telephone 25087
company. Investment earnings of the fund shall be credited to the 25088
fund. 25089

(B) For purposes of this section, "distance learning" means 25090
the creation of a learning environment involving a school setting 25091
and at least one other location outside of the school which allows 25092
for information available at one site to be accessed at the other 25093
through the use of such educational applications as one-way or 25094
two-way transmission of data, voice, and video, singularly or in 25095
appropriate combinations. 25096

Sec. 3318.034. (A) This section applies to both of the 25097
following: 25098

(1) Any school district that has not executed an agreement 25099
for a project under sections 3318.01 to 3318.20 of the Revised 25100

Code prior to June 24, 2008; 25101

(2) Any school district that is eligible for additional 25102
assistance under sections 3318.01 to 3318.20 of the Revised Code 25103
pursuant to division (B)(2) of section 3318.04 of the Revised 25104
Code. 25105

Notwithstanding any provision of this chapter to the 25106
contrary, with the approval of the Ohio school facilities 25107
commission, any school district to which this section applies may 25108
opt to divide the district's entire classroom facilities needs, as 25109
those needs are jointly determined by the staff of the commission 25110
and the school district, into discrete segments and shall comply 25111
with all of the provisions of those sections unless otherwise 25112
provided in this section. 25113

(B) Except as provided in division (C) of this section, each 25114
segment shall comply with all of the following: 25115

(1) The segment shall consist of the new construction of one 25116
or more entire buildings or the complete renovation of one or more 25117
entire existing buildings, with any necessary additions to that 25118
building. 25119

(2) The segment shall not include any construction of or 25120
renovation or repair to any building that does not complete the 25121
needs of the district with respect to that particular building at 25122
the time the segment is completed. 25123

(3) The segment shall consist of new construction, 25124
renovations, additions, reconstruction, or repair of classroom 25125
facilities to the extent that the school district portion, as 25126
determined under section 3318.032 of the Revised Code, is an 25127
amount not less than the product of 0.040 times the district's 25128
valuation at the time the agreement for the segment is executed, 25129
unless the district previously has undertaken a segment under this 25130
section and the district's portion of the estimated basic project 25131

cost of the remainder of its entire classroom facilities needs, as 25132
determined jointly by the staff of the commission and the 25133
district, is less than the amount otherwise required by this 25134
division. 25135

(C) A district described in division (A)(2) of this section 25136
that has not received the additional assistance authorized under 25137
division (B)(2) of section 3318.04 of the Revised Code may 25138
undertake a segment, with commission approval, for the purpose of 25139
renovating or replacing work performed on a facility under the 25140
district's prior project. The commission may approve that segment 25141
if the commission determines that the renovation or replacement is 25142
necessary to protect the facility. The basic project cost of the 25143
segment shall be allocated between the state and the district in 25144
accordance with section 3318.032 of the Revised Code. However, the 25145
requirements of division (B) of this section shall not apply to a 25146
segment undertaken under this division. 25147

(D) The commission shall conditionally approve and seek 25148
controlling board approval in accordance with division (A) of 25149
section 3318.04 of the Revised Code of each segment. 25150

(E) ~~The school district's maintenance levy requirement, as~~ 25151
~~defined in section 3318.18 of the Revised Code, (1) When~~ 25152
undertaking a segment under this section, a school district may 25153
elect to prorate its full maintenance amount by setting aside for 25154
maintenance the amount calculated under division (E)(2) of this 25155
section to maintain the classroom facilities acquired under the 25156
segment, if the district will use one or more of the alternative 25157
methods authorized in sections 3318.051, 3318.052, and 3318.084 of 25158
the Revised Code to generate the entire amount calculated under 25159
that division. If the district so elects, the commission and the 25160
district shall include in the agreement entered into under section 25161
3318.08 of the Revised Code a statement specifying that the 25162
district will use the amount calculated under that division only 25163

to maintain the classroom facilities acquired under the segment. 25164

(2) The commission shall calculate the amount for a school district to maintain the classroom facilities acquired under a segment as follows: 25165
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The full maintenance amount X (the school district's portion of the basic project cost for the segment / 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) 25168
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(3) A school district may elect to prorate its full maintenance amount for any number of segments, 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 (E)(2) of this section to maintain the classroom facilities acquired under each segment 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: 25173
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The full maintenance amount - the sum of the amounts calculated for the district under division (E)(2) of this section for each prior segment of the district's project 25188
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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 (E)(2) and (3) of this section exceed the amount that would have been required for maintenance if the district had 25191
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elected to undertake its project in its entirety instead of 25195
segmenting the project under this section. 25196

(5) If a school district commenced a segment under this 25197
section prior to the effective date of this amendment but has not 25198
completed that segment, and has not levied the tax described in 25199
division (B) of section 3318.05 of the Revised Code or an 25200
extension of that tax under section 3318.061 of the Revised Code, 25201
the district may request approval from the commission to prorate 25202
its full maintenance amount in accordance with divisions (E)(1) to 25203
(4) of this section. If the commission approves the request, the 25204
commission and the district shall amend the agreement entered into 25205
under section 3318.08 of the Revised Code to reflect the change. 25206

(F) If a school district levies the tax described in division 25207
(B) of section 3318.05 of the Revised Code or an extension of that 25208
tax under section 3318.061 of the Revised Code, the tax shall run 25209
for twenty-three years from the date the ~~first~~ segment for which 25210
the tax is initially levied is undertaken; ~~however, the~~. The 25211
maintenance levy requirement, as defined in section 3318.18 of the 25212
Revised Code, does not apply to a segment undertaken under 25213
division (C) of this section. 25214

(G) As used in this section, "full maintenance amount" means 25215
the amount of total revenue that a school district likely would 25216
generate by one-half mill of the tax described in division (B) of 25217
section 3318.05 of the Revised Code over the entire 25218
twenty-three-year period required under that section, as 25219
determined by the commission in consultation with the department 25220
of taxation. 25221

Sec. 3318.08. Except in the case of a joint vocational school 25222
district that receives assistance under sections 3318.40 to 25223
3318.45 of the Revised Code, if the requisite favorable vote on 25224
the election is obtained, or if the school district board has 25225

resolved to apply the proceeds of a property tax levy or the 25226
proceeds of an income tax, or a combination of proceeds from such 25227
taxes, as authorized in section 3318.052 of the Revised Code, the 25228
Ohio school facilities commission, upon certification to it of 25229
either the results of the election or the resolution under section 25230
3318.052 of the Revised Code, shall enter into a written agreement 25231
with the school district board for the construction and sale of 25232
the project. In the case of a joint vocational school district 25233
that receives assistance under sections 3318.40 to 3318.45 of the 25234
Revised Code, if the school district board of education and the 25235
school district electors have satisfied the conditions prescribed 25236
in division (D)(1) of section 3318.41 of the Revised Code, the 25237
commission shall enter into an agreement with the school district 25238
board for the construction and sale of the project. In either 25239
case, the agreement shall include, but need not be limited to, the 25240
following provisions: 25241

(A) The sale and issuance of bonds or notes in anticipation 25242
thereof, as soon as practicable after the execution of the 25243
agreement, in an amount equal to the school district's portion of 25244
the basic project cost, including any securities authorized under 25245
division (J) of section 133.06 of the Revised Code and dedicated 25246
by the school district board to payment of the district's portion 25247
of the basic project cost of the project; provided, that if at 25248
that time the county treasurer of each county in which the school 25249
district is located has not commenced the collection of taxes on 25250
the general duplicate of real and public utility property for the 25251
year in which the controlling board approved the project, the 25252
school district board shall authorize the issuance of a first 25253
installment of bond anticipation notes in an amount specified by 25254
the agreement, which amount shall not exceed an amount necessary 25255
to raise the net bonded indebtedness of the school district as of 25256
the date of the controlling board's approval to within five 25257
thousand dollars of the required level of indebtedness for the 25258

preceding year. In the event that a first installment of bond 25259
anticipation notes is issued, the school district board shall, as 25260
soon as practicable after the county treasurer of each county in 25261
which the school district is located has commenced the collection 25262
of taxes on the general duplicate of real and public utility 25263
property for the year in which the controlling board approved the 25264
project, authorize the issuance of a second and final installment 25265
of bond anticipation notes or a first and final issue of bonds. 25266

The combined value of the first and second installment of 25267
bond anticipation notes or the value of the first and final issue 25268
of bonds shall be equal to the school district's portion of the 25269
basic project cost. The proceeds of any such bonds shall be used 25270
first to retire any bond anticipation notes. Otherwise, the 25271
proceeds of such bonds and of any bond anticipation notes, except 25272
the premium and accrued interest thereon, shall be deposited in 25273
the school district's project construction fund. In determining 25274
the amount of net bonded indebtedness for the purpose of fixing 25275
the amount of an issue of either bonds or bond anticipation notes, 25276
gross indebtedness shall be reduced by moneys in the bond 25277
retirement fund only to the extent of the moneys therein on the 25278
first day of the year preceding the year in which the controlling 25279
board approved the project. Should there be a decrease in the tax 25280
valuation of the school district so that the amount of 25281
indebtedness that can be incurred on the tax duplicates for the 25282
year in which the controlling board approved the project is less 25283
than the amount of the first installment of bond anticipation 25284
notes, there shall be paid from the school district's project 25285
construction fund to the school district's bond retirement fund to 25286
be applied against such notes an amount sufficient to cause the 25287
net bonded indebtedness of the school district, as of the first 25288
day of the year following the year in which the controlling board 25289
approved the project, to be within five thousand dollars of the 25290
required level of indebtedness for the year in which the 25291

controlling board approved the project. The maximum amount of 25292
indebtedness to be incurred by any school district board as its 25293
share of the cost of the project is either an amount that will 25294
cause its net bonded indebtedness, as of the first day of the year 25295
following the year in which the controlling board approved the 25296
project, to be within five thousand dollars of the required level 25297
of indebtedness, or an amount equal to the required percentage of 25298
the basic project costs, whichever is greater. All bonds and bond 25299
anticipation notes shall be issued in accordance with Chapter 133. 25300
of the Revised Code, and notes may be renewed as provided in 25301
section 133.22 of the Revised Code. 25302

(B) The transfer of such funds of the school district board 25303
available for the project, together with the proceeds of the sale 25304
of the bonds or notes, except premium, accrued interest, and 25305
interest included in the amount of the issue, to the school 25306
district's project construction fund; 25307

(C) For all school districts except joint vocational school 25308
districts that receive assistance under sections 3318.40 to 25309
3318.45 of the Revised Code, the following provisions as 25310
applicable: 25311

(1) If section 3318.052 of the Revised Code applies, the 25312
earmarking of the proceeds of a tax levied under section 5705.21 25313
of the Revised Code for general permanent improvements or under 25314
section 5705.218 of the Revised Code for the purpose of permanent 25315
improvements, or the proceeds of a school district income tax 25316
levied under Chapter 5748. of the Revised Code, or the proceeds 25317
from a combination of those two taxes, in an amount to pay all or 25318
part of the service charges on bonds issued to pay the school 25319
district portion of the project and an amount equivalent to all or 25320
part of the tax required under division (B) of section 3318.05 of 25321
the Revised Code; 25322

(2) If section 3318.052 of the Revised Code does not apply, 25323

one of the following: 25324

(a) The levy of the tax authorized at the election for the 25325
payment of maintenance costs, as specified in division (B) of 25326
section 3318.05 of the Revised Code; 25327

(b) If the school district electors have approved a 25328
continuing tax for general permanent improvements under section 25329
5705.21 of the Revised Code and that tax can be used for 25330
maintenance, the earmarking of an amount of the proceeds from such 25331
tax for maintenance of classroom facilities as specified in 25332
division (B) of section 3318.05 of the Revised Code; 25333

(c) If, in lieu of the tax otherwise required under division 25334
(B) of section 3318.05 of the Revised Code, the commission has 25335
approved the transfer of money to the maintenance fund in 25336
accordance with section 3318.051 of the Revised Code, a 25337
requirement that the district board comply with the provisions 25338
that section. The district board may rescind the provision 25339
prescribed under division (C)(2)(c) of this section only so long 25340
as the electors of the district have approved, in accordance with 25341
section 3318.063 of the Revised Code, the levy of a tax for the 25342
maintenance of the classroom facilities acquired under the 25343
district's project and that levy continues to be collected as 25344
approved by the electors. 25345

(D) For joint vocational school districts that receive 25346
assistance under sections 3318.40 to 3318.45 of the Revised Code, 25347
provision for deposit of school district moneys dedicated to 25348
maintenance of the classroom facilities acquired under those 25349
sections as prescribed in section 3318.43 of the Revised Code; 25350

(E) Dedication of any local donated contribution as provided 25351
for under section 3318.084 of the Revised Code, including a 25352
schedule for depositing such moneys applied as an offset of the 25353
district's obligation to levy the tax described in division (B) of 25354

section 3318.05 of the Revised Code as required under division 25355
(D)(2) of section 3318.084 of the Revised Code; 25356

(F) Ownership of or interest in the project during the period 25357
of construction, which shall be divided between the commission and 25358
the school district board in proportion to their respective 25359
contributions to the school district's project construction fund; 25360

(G) Maintenance of the state's interest in the project until 25361
any obligations issued for the project under section 3318.26 of 25362
the Revised Code are no longer outstanding; 25363

(H) The insurance of the project by the school district from 25364
the time there is an insurable interest therein and so long as the 25365
state retains any ownership or interest in the project pursuant to 25366
division (F) of this section, in such amounts and against such 25367
risks as the commission shall require; provided, that the cost of 25368
any required insurance until the project is completed shall be a 25369
part of the basic project cost; 25370

(I) The certification by the director of budget and 25371
management that funds are available and have been set aside to 25372
meet the state's share of the basic project cost as approved by 25373
the controlling board pursuant to either section 3318.04 or 25374
division (B)(1) of section 3318.41 of the Revised Code; 25375

(J) Authorization of the school district board to advertise 25376
for and receive construction bids for the project, for and on 25377
behalf of the commission, and to award contracts in the name of 25378
the state subject to approval by the commission; 25379

(K) Provisions for the disbursement of moneys from the school 25380
district's project account upon issuance by the commission or the 25381
commission's designated representative of vouchers for work done 25382
to be certified to the commission by the treasurer of the school 25383
district board; 25384

(L) Disposal of any balance left in the school district's 25385

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| project construction fund upon completion of the project; | 25386 |
| (M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding; | 25387 25388 25389 |
| (N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding; | 25390 25391 25392 25393 |
| (O) Provision for deposit of an executed copy of the agreement in the office of the commission; | 25394 25395 |
| (P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as may be fixed by the commission; | 25396 25397 25398 25399 25400 25401 25402 |
| (Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission <u>and to comply with the plan</u> ; | 25403 25404 25405 |
| (R) Provision that all state funds reserved and encumbered to pay the state share of the cost of the project and the funds provided by the school district to pay for its share of the project cost, including the respective shares of the cost of a segment if the project is divided into segments, be spent on the construction and acquisition of the project or segment simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code. However, if the school district | 25406 25407 25408 25409 25410 25411 25412 25413 25414 25415 25416 |

certifies to the commission that expenditure by the school 25417
district is necessary to maintain the federal tax status or 25418
tax-exempt status of notes or bonds issued by the school district 25419
to pay for its share of the project cost or to comply with 25420
applicable temporary investment periods or spending exceptions to 25421
rebate as provided for under federal law in regard to those notes 25422
or bonds, the school district may commit to spend, or spend, a 25423
greater portion of the funds it provides during any specific 25424
period than would otherwise be required under this division. 25425

(S) A provision stipulating that the commission may prohibit 25426
the district from proceeding with any project if the commission 25427
determines that the site is not suitable for construction 25428
purposes. The commission may perform soil tests in its 25429
determination of whether a site is appropriate for construction 25430
purposes. 25431

(T) A provision stipulating that, unless otherwise authorized 25432
by the commission, any contingency reserve portion of the 25433
construction budget prescribed by the commission shall be used 25434
only to pay costs resulting from unforeseen job conditions, to 25435
comply with rulings regarding building and other codes, to pay 25436
costs related to design clarifications or corrections to contract 25437
documents, and to pay the costs of settlements or judgments 25438
related to the project as provided under section 3318.086 of the 25439
Revised Code; 25440

(U) Provision stipulating that for continued release of 25441
project funds the school district board shall comply with section 25442
3313.41 of the Revised Code throughout the project and shall 25443
notify the department of education and the Ohio community school 25444
association when the board plans to dispose of facilities by sale 25445
under that section; 25446

(V) Provision that the commission shall not approve a 25447
contract for demolition of a facility until the school district 25448

board has complied with section 3313.41 of the Revised Code 25449
relative to that facility, unless demolition of that facility is 25450
to clear a site for construction of a replacement facility 25451
included in the district's project. 25452

Sec. 3318.10. When such working drawings, specifications, and 25453
estimates of cost have been approved by the school district board 25454
and the Ohio school facilities commission, the treasurer of the 25455
school district board shall advertise for construction bids in 25456
accordance with section 3313.46 of the Revised Code. Such notices 25457
shall state that plans and specifications for the project are on 25458
file in the office of the commission and such other place as may 25459
be designated in such notice, and the time and place when and 25460
where bids therefor will be received. 25461

The form of proposal to be submitted by bidders shall be 25462
supplied by the commission. Bidders may be permitted to bid upon 25463
all the branches of work and materials to be furnished and 25464
supplied, upon any branch thereof, or upon all or any thereof. 25465

When the construction bids for all branches of work and 25466
materials have been tabulated, the commission shall cause to be 25467
prepared a revised estimate of the basic project cost based upon 25468
the lowest responsible bids received. If such revised estimate 25469
exceeds the estimated basic project cost as approved by the 25470
controlling board pursuant to section 3318.04 or division (B)(1) 25471
of section 3318.41 of the Revised Code, no contracts may be 25472
entered into pursuant to this section unless such revised estimate 25473
is approved by the commission and by the controlling board. When 25474
such revised estimate has been prepared, and after such approvals 25475
are given, if necessary, and if the school district board has 25476
caused to be transferred to the project construction fund the 25477
proceeds from the sale of the first or first and final installment 25478
of its bonds or bond anticipation notes pursuant to the provision 25479

of the written agreement required by division (B) of section 25480
3318.08 of the Revised Code, and when the director of budget and 25481
management has certified that there is a balance in the 25482
appropriation, not otherwise obligated to pay precedent 25483
obligations, pursuant to which the state's share of such revised 25484
estimate is required to be paid, the contract for all branches of 25485
work and materials to be furnished and supplied, or for any branch 25486
thereof as determined by the school district board, shall be 25487
awarded by the school district board to the lowest responsible 25488
bidder subject to the approval of the commission. Such award shall 25489
be made within sixty days after the date on which the bids are 25490
opened, and the successful bidder shall enter into a contract 25491
within ten days after the successful bidder is notified of the 25492
award of the contract. 25493

Subject to the approval of the commission, the school 25494
district board may reject all bids and readvertise. Any contract 25495
made under this section shall be made in the name of the state and 25496
executed on its behalf by the president and treasurer of the 25497
school district board. 25498

The provisions of sections 9.312 and 3313.46 of the Revised 25499
Code, which are applicable to construction contracts of boards of 25500
education, shall apply to construction contracts for the project. 25501

The remedies afforded to any subcontractor, materials 25502
supplier, laborer, mechanic, or persons furnishing material or 25503
machinery for the project under sections 1311.26 to 1311.32 of the 25504
Revised Code, shall apply to contracts entered into under this 25505
section and the itemized statement required by section 1311.26 of 25506
the Revised Code shall be filed with the school district board. 25507

Notwithstanding any other requirement of this section, a 25508
school district, with the approval of the commission, may utilize 25509
any otherwise lawful alternative construction delivery method for 25510
the construction of the project. 25511

Sec. 3318.30. (A) There is hereby created the Ohio school 25512
facilities commission as an independent agency of the state within 25513
the Ohio facilities construction commission, which is created 25514
under section 123.20 of the Revised Code. The Ohio school 25515
facilities commission shall administer the provision of financial 25516
assistance to school districts for the acquisition or construction 25517
of classroom facilities in accordance with sections 3318.01 to 25518
3318.33 of the Revised Code. 25519

The Ohio school facilities commission is a body corporate and 25520
politic, an agency of state government and an instrumentality of 25521
the state, performing essential governmental functions of this 25522
state. The carrying out of the purposes and the exercise by the 25523
Ohio school facilities commission of its powers conferred by 25524
sections 3318.01 to 3318.33 of the Revised Code are essential 25525
public functions and public purposes of the state. The Ohio school 25526
facilities commission may, in its own name, sue and be sued, enter 25527
into contracts, and perform all the powers and duties given to it 25528
by sections 3318.01 to 3318.33 of the Revised Code, but it does 25529
not have and shall not exercise the power of eminent domain. In 25530
its discretion and as it determines appropriate, the Ohio school 25531
facilities commission may delegate to any of its members, 25532
executive director, or other employees any of the Ohio school 25533
facilities commission's powers and duties to carry out its 25534
functions. 25535

(B) The Ohio school facilities commission shall consist of 25536
seven members, three of whom are voting members. The voting 25537
members of the Ohio school facilities commission shall be the 25538
director of the office of budget and management, the director of 25539
administrative services, and the superintendent of public 25540
instruction, or their designees. Of the nonvoting members, two 25541
shall be members of the senate appointed by the president of the 25542
senate, and two shall be members of the house of representatives 25543

appointed by the speaker of the house. Each of the appointees of 25544
the president, and each of the appointees of the speaker, shall be 25545
members of different political parties. 25546

Nonvoting members shall serve as members of the Ohio school 25547
facilities commission during the legislative biennium for which 25548
they are appointed, except that any such member who ceases to be a 25549
member of the legislative house from which the member was 25550
appointed shall cease to be a member of the Ohio school facilities 25551
commission. Each nonvoting member shall be appointed within 25552
thirty-one days of the end of the term of that member's 25553
predecessor. Such members may be reappointed. Vacancies of 25554
nonvoting members shall be filled in the manner provided for 25555
original appointments. 25556

Members of the Ohio school facilities commission shall serve 25557
without compensation. 25558

After the initial nonvoting members of the Ohio school 25559
facilities commission have been appointed, the Ohio school 25560
facilities commission shall meet and organize by electing voting 25561
members as the chairperson and vice-chairperson of the Ohio school 25562
facilities commission, who shall hold their offices until the next 25563
organizational meeting of the Ohio school facilities commission. 25564
Organizational meetings of the Ohio school facilities commission 25565
shall be held at the first meeting of each calendar year. At each 25566
organizational meeting, the Ohio school facilities commission 25567
shall elect from among its voting members a chairperson and 25568
vice-chairperson, who shall serve until the next annual 25569
organizational meeting. The Ohio school facilities commission 25570
shall adopt rules pursuant to section 111.15 of the Revised Code 25571
for the conduct of its internal business and shall keep a journal 25572
of its proceedings. Including the organizational meeting, the Ohio 25573
school facilities commission shall meet at least once each 25574
calendar quarter. 25575

Two voting members of the Ohio school facilities commission 25576
constitute a quorum, and the affirmative vote of two members is 25577
necessary for approval of any action taken by the Ohio school 25578
facilities commission. A vacancy in the membership of the Ohio 25579
school facilities commission does not impair a quorum from 25580
exercising all the rights and performing all the duties of the 25581
Ohio school facilities commission. Meetings of the Ohio school 25582
facilities commission may be held anywhere in the state and shall 25583
be held in compliance with section 121.22 of the Revised Code. 25584

(C) The Ohio school facilities commission shall file an 25585
annual report of its activities and finances with the governor, 25586
speaker of the house of representatives, president of the senate, 25587
and chairpersons of the house and senate finance committees. 25588

(D) The Ohio school facilities commission shall be exempt 25589
from the requirements of sections 101.82 to 101.87 of the Revised 25590
Code. 25591

(E) The Ohio school facilities commission may share employees 25592
and facilities with the Ohio facilities construction commission. 25593

Sec. 3318.31. (A) The Ohio school facilities commission may 25594
perform any act and ensure the performance of any function 25595
necessary or appropriate to carry out the purposes of, and 25596
exercise the powers granted under, Chapter 3318. of the Revised 25597
Code, including any of the following: 25598

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 25599
the Revised Code, rules for the administration of programs 25600
authorized under Chapter 3318. of the Revised Code. 25601

(2) Contract with, retain the services of, or designate, and 25602
fix the compensation of, such agents, accountants, consultants, 25603
advisers, and other independent contractors as may be necessary or 25604
desirable to carry out the programs authorized under Chapter 3318. 25605

of the Revised Code, or authorize the executive director to 25606
perform such powers and duties. 25607

(3) Receive and accept any gifts, grants, donations, and 25608
pledges, and receipts therefrom, to be used for the programs 25609
authorized under Chapter 3318. of the Revised Code. 25610

(4) Make and enter into all contracts, commitments, and 25611
agreements, and execute all instruments, necessary or incidental 25612
to the performance of its duties and the execution of its rights 25613
and powers under Chapter 3318. of the Revised Code, or authorize 25614
the executive director to perform such powers and duties. 25615

(5) Request the ~~director of administrative services~~ Ohio 25616
facilities construction commission to debar a contractor as 25617
provided in section 153.02 of the Revised Code. 25618

(B) The Ohio school facilities commission shall appoint and 25619
fix the compensation of an executive director who shall serve at 25620
the pleasure of the Ohio school facilities commission. The 25621
executive director shall exercise all powers that the Ohio school 25622
facilities commission possesses, supervise the operations of the 25623
Ohio school facilities commission and perform such other duties as 25624
delegated by the Ohio school facilities commission. The executive 25625
director also shall employ and fix the compensation of such 25626
employees as will facilitate the activities and purposes of the 25627
Ohio school facilities commission, who shall serve at the pleasure 25628
of the executive director. The employees of the Ohio school 25629
facilities commission shall be exempt from Chapter 4117. of the 25630
Revised Code and shall not be public employees as defined in 25631
section 4117.01 of the Revised Code. 25632

(C) The Ohio school facilities commission may adopt, amend, 25633
and rescind rules pertaining to the administration of the 25634
construction of school facilities of the state under Chapter 119. 25635
of the Revised Code. 25636

(D) The attorney general shall serve as the legal 25637
representative for the Ohio school facilities commission and may 25638
appoint other counsel as necessary for that purpose in accordance 25639
with section 109.07 of the Revised Code. 25640

Sec. 3318.36. (A)(1) As used in this section: 25641

(a) "Ohio school facilities commission," "classroom 25642
facilities," "school district," "school district board," "net 25643
bonded indebtedness," "required percentage of the basic project 25644
costs," "basic project cost," "valuation," and "percentile" have 25645
the same meanings as in section 3318.01 of the Revised Code. 25646

(b) "Required level of indebtedness" means five per cent of 25647
the school district's valuation for the year preceding the year in 25648
which the commission and school district enter into an agreement 25649
under division (B) of this section, plus [two one-hundredths of 25650
one per cent multiplied by (the percentile in which the district 25651
ranks minus one)]. 25652

(c) "Local resources" means any moneys generated in any 25653
manner permitted for a school district board to raise the school 25654
district portion of a project undertaken with assistance under 25655
sections 3318.01 to 3318.20 of the Revised Code. 25656

(d) "Tangible personal property phase-out impacted district" 25657
means a school district for which the taxable value of its 25658
tangible personal property certified under division (A)(2) of 25659
section 3317.021 of the Revised Code for tax year 2005, excluding 25660
the taxable value of public utility personal property, made up 25661
eighteen per cent or more of its total taxable value for tax year 25662
2005 as certified under that section. 25663

(2) For purposes of determining the required level of 25664
indebtedness, the required percentage of the basic project costs 25665
under division (C)(1) of this section, and priority for assistance 25666

under sections 3318.01 to 3318.20 of the Revised Code, the 25667
percentile ranking of a school district with which the commission 25668
has entered into an agreement under this section between the first 25669
day of July and the thirty-first day of August in each fiscal year 25670
is the percentile ranking calculated for that district for the 25671
immediately preceding fiscal year, and the percentile ranking of a 25672
school district with which the commission has entered into such 25673
agreement between the first day of September and the thirtieth day 25674
of June in each fiscal year is the percentile ranking calculated 25675
for that district for the current fiscal year. However, in the 25676
case of a tangible personal property phase-out impacted district, 25677
the district's priority for assistance under sections 3318.01 to 25678
3318.20 of the Revised Code and its portion of the basic project 25679
cost under those sections shall be determined in the manner 25680
prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of 25681
this section. 25682

(B)(1) There is hereby established the school building 25683
assistance expedited local partnership program. Under the program, 25684
the Ohio school facilities commission may enter into an agreement 25685
with the school district board of any school district under which 25686
the school district board may proceed with the new construction or 25687
major repairs of a part of the school district's classroom 25688
facilities needs, as determined under sections 3318.01 to 3318.20 25689
of the Revised Code, through the expenditure of local resources 25690
prior to the school district's eligibility for state assistance 25691
under those sections and may apply that expenditure toward meeting 25692
the school district's portion of the basic project cost of the 25693
total of the school district's classroom facilities needs, as 25694
determined under sections 3318.01 to 3318.20 of the Revised Code 25695
and as recalculated under division (E) of this section, that are 25696
eligible for state assistance under sections 3318.01 to 3318.20 of 25697
the Revised Code when the school district becomes eligible for 25698
that assistance. Any school district that is reasonably expected 25699

to receive assistance under sections 3318.01 to 3318.20 of the Revised Code within two fiscal years from the date the school district adopts its resolution under division (B) of this section shall not be eligible to participate in the program established under this section.

(2) To participate in the program, a school district board shall first adopt a resolution certifying to the commission the board's intent to participate in the program.

The resolution shall specify the approximate date that the board intends to seek elector approval of any bond or tax measures or to apply other local resources to use to pay the cost of classroom facilities to be constructed under this section. The resolution may specify the application of local resources or elector-approved bond or tax measures after the resolution is adopted by the board, and in such case the board may proceed with a discrete portion of its project under this section as soon as the commission and the controlling board have approved the basic project cost of the district's classroom facilities needs as specified in division (D) of this section. The board shall submit its resolution to the commission not later than ten days after the date the resolution is adopted by the board.

The commission shall not consider any resolution that is submitted pursuant to division (B)(2) of this section, as amended by this amendment, sooner than September 14, 2000.

(3) For purposes of determining when a district that enters into an agreement under this section becomes eligible for assistance under sections 3318.01 to 3318.20 of the Revised Code, the commission shall use one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the district's percentile ranking determined at the time the district entered into the agreement under this

section, as prescribed by division (A)(2) of this section; 25731

(b) For a tangible personal property phase-out impacted 25732
district, the lesser of (i) the district's percentile ranking 25733
determined at the time the district entered into the agreement 25734
under this section, as prescribed by division (A)(2) of this 25735
section, or (ii) the district's current percentile ranking under 25736
section 3318.011 of the Revised Code. 25737

(4) Any project under this section shall comply with section 25738
3318.03 of the Revised Code and with any specifications for plans 25739
and materials for classroom facilities adopted by the commission 25740
under section 3318.04 of the Revised Code. 25741

(5) If a school district that enters into an agreement under 25742
this section has not begun a project applying local resources as 25743
provided for under that agreement at the time the district is 25744
notified by the commission that it is eligible to receive state 25745
assistance under sections 3318.01 to 3318.20 of the Revised Code, 25746
all assessment and agreement documents entered into under this 25747
section are void. 25748

(6) Only construction of or repairs to classroom facilities 25749
that have been approved by the commission and have been therefore 25750
included as part of a district's basic project cost qualify for 25751
application of local resources under this section. 25752

(C) Based on the results of on-site visits and assessment, 25753
the commission shall determine the basic project cost of the 25754
school district's classroom facilities needs. The commission shall 25755
determine the school district's portion of such basic project 25756
cost, which shall be the greater of: 25757

(1) The required percentage of the basic project costs, 25758
determined based on the school district's percentile ranking; 25759

(2) An amount necessary to raise the school district's net 25760
bonded indebtedness, as of the fiscal year the commission and the 25761

school district enter into the agreement under division (B) of 25762
this section, to within five thousand dollars of the required 25763
level of indebtedness. 25764

(D)(1) When the commission determines the basic project cost 25765
of the classroom facilities needs of a school district and the 25766
school district's portion of that basic project cost under 25767
division (C) of this section, the project shall be conditionally 25768
approved. Such conditional approval shall be submitted to the 25769
controlling board for approval thereof. The controlling board 25770
shall forthwith approve or reject the commission's determination, 25771
conditional approval, and the amount of the state's portion of the 25772
basic project cost; however, no state funds shall be encumbered 25773
under this section. Upon approval by the controlling board, the 25774
school district board may identify a discrete part of its 25775
classroom facilities needs, which shall include only new 25776
construction of or additions or major repairs to a particular 25777
building, to address with local resources. Upon identifying a part 25778
of the school district's basic project cost to address with local 25779
resources, the school district board may allocate any available 25780
school district moneys to pay the cost of that identified part, 25781
including the proceeds of an issuance of bonds if approved by the 25782
electors of the school district. 25783

All local resources utilized under this division shall first 25784
be deposited in the project construction account required under 25785
section 3318.08 of the Revised Code. 25786

(2) Unless the school district board exercises its option 25787
under division (D)(3) of this section, for a school district to 25788
qualify for participation in the program authorized under this 25789
section, one of the following conditions shall be satisfied: 25790

(a) The electors of the school district by a majority vote 25791
shall approve the levy of taxes outside the ten-mill limitation 25792
for a period of twenty-three years at the rate of not less than 25793

one-half mill for each dollar of valuation to be used to pay the 25794
cost of maintaining the classroom facilities included in the basic 25795
project cost as determined by the commission. The form of the 25796
ballot to be used to submit the question whether to approve the 25797
tax required under this division to the electors of the school 25798
district shall be the form for an additional levy of taxes 25799
prescribed in section 3318.361 of the Revised Code, which may be 25800
combined in a single ballot question with the questions prescribed 25801
under section 5705.218 of the Revised Code. 25802

(b) As authorized under division (C) of section 3318.05 of 25803
the Revised Code, the school district board shall earmark from the 25804
proceeds of a permanent improvement tax levied under section 25805
5705.21 of the Revised Code, an amount equivalent to the 25806
additional tax otherwise required under division (D)(2)(a) of this 25807
section for the maintenance of the classroom facilities included 25808
in the basic project cost as determined by the commission. 25809

(c) As authorized under section 3318.051 of the Revised Code, 25810
the school district board shall, if approved by the commission, 25811
annually transfer into the maintenance fund required under section 25812
3318.05 of the Revised Code the amount prescribed in section 25813
3318.051 of the Revised Code in lieu of the tax otherwise required 25814
under division (D)(2)(a) of this section for the maintenance of 25815
the classroom facilities included in the basic project cost as 25816
determined by the commission. 25817

(d) If the school district board has rescinded the agreement 25818
to make transfers under section 3318.051 of the Revised Code, as 25819
provided under division (F) of that section, the electors of the 25820
school district, in accordance with section 3318.063 of the 25821
Revised Code, first shall approve the levy of taxes outside the 25822
ten-mill limitation for the period specified in that section at a 25823
rate of not less than one-half mill for each dollar of valuation. 25824

(e) The school district board shall apply the proceeds of a 25825

tax to leverage bonds as authorized under section 3318.052 of the Revised Code or dedicate a local donated contribution in the manner described in division (B) of section 3318.084 of the Revised Code in an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(3) A school district board may opt to delay taking any of the actions described in division (D)(2) of this section until the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code. In order to exercise this option, the board shall certify to the commission a resolution indicating the board's intent to do so prior to entering into an agreement under division (B) of this section.

(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. 25857

(E)(1) If the school district becomes eligible for state 25858
assistance under sections 3318.01 to 3318.20 of the Revised Code 25859
based on its percentile ranking under division (B)(3) of this 25860
section, the commission shall conduct a new assessment of the 25861
school district's classroom facilities needs and shall recalculate 25862
the basic project cost based on this new assessment. The basic 25863
project cost recalculated under this division shall include the 25864
amount of expenditures made by the school district board under 25865
division (D)(1) of this section. The commission shall then 25866
recalculate the school district's portion of the new basic project 25867
cost, which shall be one of the following as applicable: 25868

(a) Except for a tangible personal property phase-out 25869
impacted district, the percentage of the original basic project 25870
cost assigned to the school district as its portion under division 25871
(C) of this section; 25872

(b) For a tangible personal property phase-out impacted 25873
district, the lesser of (i) the percentage of the original basic 25874
project cost assigned to the school district as its portion under 25875
division (C) of this section, or (ii) the percentage of the new 25876
basic project cost determined under section 3318.032 of the 25877
Revised Code using the district's current percentile ranking under 25878
section 3318.011 of the Revised Code. The 25879

The commission shall deduct the expenditure of school 25880
district moneys made under division (D)(1) of this section from 25881
the school district's portion of the basic project cost as 25882
recalculated under this division. If the amount of school district 25883
resources applied by the school district board to the school 25884
district's portion of the basic project cost under this section is 25885
less than the total amount of such portion as recalculated under 25886
this division, the school district board by a majority vote of all 25887
of its members shall, if it desires to seek state assistance under 25888

sections 3318.01 to 3318.20 of the Revised Code, adopt a 25889
resolution as specified in section 3318.06 of the Revised Code to 25890
submit to the electors of the school district the question of 25891
approval of a bond issue in order to pay any additional amount of 25892
school district portion required for state assistance. Any tax 25893
levy approved under division (D) of this section satisfies the 25894
requirements to levy the additional tax under section 3318.06 of 25895
the Revised Code. 25896

(2) If the amount of school district resources applied by the 25897
school district board to the school district's portion of the 25898
basic project cost under this section is more than the total 25899
amount of such portion as recalculated under ~~this~~ division (E)(1) 25900
of this section, within one year after the school district's 25901
portion is so recalculated ~~under division (E)(1) of this section~~ 25902
the commission may grant to the school district the difference 25903
between the two calculated portions, but at no time shall the 25904
commission expend any state funds on a project in an amount 25905
greater than the state's portion of the basic project cost as 25906
recalculated under ~~this~~ division (E)(1) of this section. 25907

Any reimbursement under this division shall be only for local 25908
resources the school district has applied toward construction cost 25909
expenditures for the classroom facilities approved by the 25910
commission, which shall not include any financing costs associated 25911
with that construction. 25912

The school district board shall use any moneys reimbursed to 25913
the district under this division to pay off any debt service the 25914
district owes for classroom facilities constructed under its 25915
project under this section before such moneys are applied to any 25916
other purpose. However, the district board first may deposit 25917
moneys reimbursed under this division into the district's general 25918
fund or a permanent improvement fund to replace local resources 25919
the district withdrew from those funds, as long as, and to the 25920

extent that, those local resources were used by the district for 25921
constructing classroom facilities included in the district's basic 25922
project cost. 25923

(3) A tangible personal property phase-out impacted district 25924
shall receive credit under division (E) of this section for the 25925
expenditure of local resources pursuant to any prior agreement 25926
authorized by this section, notwithstanding any recalculation of 25927
its average taxable value. 25928

Sec. 3318.37. (A)(1) As used in this section: 25929

(a) "Full maintenance amount" has the same meaning as in 25930
section 3318.034 of the Revised Code. 25931

(b) "Large land area school district" means a school district 25932
with a territory of greater than three hundred square miles in any 25933
percentile as determined under section 3318.011 of the Revised 25934
Code. 25935

~~(b)~~(c) "Low wealth school district" means a school district 25936
in the first through seventy-fifth percentiles as determined under 25937
section 3318.011 of the Revised Code. 25938

~~(e)~~(d) A "school district with an exceptional need for 25939
immediate classroom facilities assistance" means a low wealth or 25940
large land area school district with an exceptional need for new 25941
facilities in order to protect the health and safety of all or a 25942
portion of its students. 25943

(2) No school district that participates in the school 25944
building assistance expedited local partnership program under 25945
section 3318.36 of the Revised Code shall receive assistance under 25946
the program established under this section unless the following 25947
conditions are satisfied: 25948

(a) The district board adopted a resolution certifying its 25949
intent to participate in the school building assistance expedited 25950

local partnership program under section 3318.36 of the Revised Code prior to September 14, 2000.

(b) The district was selected by the Ohio school facilities commission for participation in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code in the manner prescribed by the commission under that section as it existed prior to September 14, 2000.

(B)(1) There is hereby established the exceptional needs school facilities assistance program. Under the program, the Ohio school facilities commission may set aside from the moneys annually appropriated to it for classroom facilities assistance projects up to twenty-five per cent for assistance to school districts with exceptional needs for immediate classroom facilities assistance.

(2)(a) After consulting with education and construction experts, the commission shall adopt guidelines for identifying school districts with an exceptional need for immediate classroom facilities assistance.

(b) The guidelines shall include application forms and instructions for school districts to use in applying for assistance under this section.

(3) The commission shall evaluate the classroom facilities, and the need for replacement classroom facilities from the applications received under this section. The commission, utilizing the guidelines adopted under division (B)(2)(a) of this section, shall prioritize the school districts to be assessed.

Notwithstanding section 3318.02 of the Revised Code, the commission may conduct on-site evaluation of the school districts prioritized under this section and approve and award funds until such time as all funds set aside under division (B)(1) of this section have been encumbered. However, the commission need not

conduct the evaluation of facilities if the commission determines 25982
that a district's assessment conducted under section 3318.36 of 25983
the Revised Code is sufficient for purposes of this section. 25984

(4) Notwithstanding division (A) of section 3318.05 of the 25985
Revised Code, the school district's portion of the basic project 25986
cost under this section shall be the "required percentage of the 25987
basic project costs," as defined in division (K) of section 25988
3318.01 of the Revised Code. 25989

(5) Except as otherwise specified in this section, any 25990
project undertaken with assistance under this section shall comply 25991
with all provisions of sections 3318.01 to 3318.20 of the Revised 25992
Code. A school district may receive assistance under sections 25993
3318.01 to 3318.20 of the Revised Code for the remainder of the 25994
district's classroom facilities needs as assessed under this 25995
section when the district is eligible for such assistance pursuant 25996
to section 3318.02 of the Revised Code, but any classroom facility 25997
constructed with assistance under this section shall not be 25998
included in a district's project at that time unless the 25999
commission determines the district has experienced the increased 26000
enrollment specified in division (B)(1) of section 3318.04 of the 26001
Revised Code. 26002

(C) No school district shall receive assistance under this 26003
section for a classroom facility that has been included in the 26004
discrete part of the district's classroom facilities needs 26005
identified and addressed in the district's project pursuant to an 26006
agreement entered into under section 3318.36 of the Revised Code, 26007
unless the district's entire classroom facilities plan consists of 26008
only a single building designed to house grades kindergarten 26009
through twelve. 26010

(D)(1) When undertaking a project under this section, a 26011
school district may elect to prorate its full maintenance amount 26012
by setting aside for maintenance the amount calculated under 26013

division (D)(2) of this section to maintain the classroom 26014
facilities acquired under the project, if the district will use 26015
one or more of the alternative methods authorized in sections 26016
3318.051, 3318.052, and 3318.084 of the Revised Code to generate 26017
the entire amount calculated under that division. If the district 26018
so elects, the commission and the district shall include in the 26019
agreement entered into under section 3318.08 of the Revised Code a 26020
statement specifying that the district will use the amount 26021
calculated under that division only to maintain the classroom 26022
facilities acquired under the project under this section. 26023

(2) The commission shall calculate the amount for a school 26024
district to maintain the classroom facilities acquired under a 26025
project under this section as follows: 26026

The full maintenance amount X (the school district's portion 26027
of the basic project cost under this section / the school 26028
district's portion of the basic project cost for the district's 26029
entire classroom facilities needs, as determined jointly by the 26030
staff of the commission and the district) 26031

(3) A school district may elect to prorate its full 26032
maintenance amount for any number of projects under this section, 26033
provided the district will use one or more of the alternative 26034
methods authorized in sections 3318.051, 3318.052, and 3318.084 of 26035
the Revised Code to generate the entire amount calculated under 26036
division (D)(2) of this section to maintain the classroom 26037
facilities acquired under each project for which it so elects. If 26038
the district cannot use one or more of those alternative methods 26039
to generate the entire amount calculated under that division, the 26040
district shall levy the tax described in division (B) of section 26041
3318.05 of the Revised Code or an extension of that tax under 26042
section 3318.061 of the Revised Code in an amount necessary to 26043
generate the remainder of its full maintenance amount. The 26044
commission shall calculate the remainder of the district's full 26045

maintenance amount as follows: 26046

The full maintenance amount - the sum of the amounts 26047
calculated for the district under division (D)(2) of this section 26048
for each of the district's prior projects under this section 26049

(4) In no case shall the sum of the amounts calculated for a 26050
school district's maintenance of classroom facilities under 26051
divisions (D)(2) and (3) of this section exceed the amount that 26052
would have been required for maintenance if the district had 26053
elected to meet its entire classroom facilities needs with a 26054
project under sections 3318.01 to 3318.20 of the Revised Code and 26055
had not undertaken one or more projects under this section. 26056

(5) If a school district commenced a project under this 26057
section prior to the effective date of this amendment but has not 26058
completed that project, and has not levied the tax described in 26059
division (B) of section 3318.05 of the Revised Code or an 26060
extension of that tax under section 3318.061 of the Revised Code, 26061
the district may request approval from the commission to prorate 26062
its full maintenance amount in accordance with divisions (D)(1) to 26063
(4) of this section. If the commission approves the request, the 26064
commission and the district shall amend the agreement entered into 26065
under section 3318.08 of the Revised Code to reflect the change. 26066

Sec. 3319.22. (A)(1) The state board of education shall issue 26067
the following educator licenses: 26068

(a) A resident educator license, which shall be valid for 26069
four years, except that the state board, on a case-by-case basis, 26070
may extend the license's duration as necessary to enable the 26071
license holder to complete the Ohio teacher residency program 26072
established under section 3319.223 of the Revised Code; 26073

(b) A professional educator license, which shall be valid for 26074
five years and shall be renewable; 26075

(c) A senior professional educator license, which shall be 26076
valid for five years and shall be renewable; 26077

(d) A lead professional educator license, which shall be 26078
valid for five years and shall be renewable. 26079

(2) The state board may issue any additional educator 26080
licenses of categories, types, and levels the board elects to 26081
provide. 26082

(3) The state board shall adopt rules establishing the 26083
standards and requirements for obtaining each educator license 26084
issued under this section. 26085

(B) The rules adopted under this section shall require at 26086
least the following standards and qualifications for the educator 26087
licenses described in division (A)(1) of this section: 26088

(1) An applicant for a resident educator license shall hold 26089
at least a bachelor's degree from an accredited teacher 26090
preparation program or be a participant in the teach for America 26091
program and meet the qualifications required under section 26092
3319.227 of the Revised Code. 26093

(2) An applicant for a professional educator license shall: 26094

(a) Hold at least a bachelor's degree from an institution of 26095
higher education accredited by a regional accrediting 26096
organization; 26097

(b) Have successfully completed the Ohio teacher residency 26098
program established under section 3319.223 of the Revised Code, if 26099
the applicant's current or most recently issued license is a 26100
resident educator license issued under this section or an 26101
alternative resident educator license issued under section 3319.26 26102
of the Revised Code. 26103

(3) An applicant for a senior professional educator license 26104
shall: 26105

| | |
|--|---|
| (a) Hold at least a master's degree from an institution of higher education accredited by a regional accrediting organization; | 26106 26107 26108 |
| (b) Have previously held a professional educator license issued under this section or section 3319.222 or under former section 3319.22 of the Revised Code; | 26109 26110 26111 |
| (c) Meet the criteria for the accomplished or distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code. | 26112 26113 26114 26115 |
| (4) An applicant for a lead professional educator license shall: | 26116 26117 |
| (a) Hold at least a master's degree from an institution of higher education accredited by a regional accrediting organization; | 26118 26119 26120 |
| (b) Have previously held a professional educator license or a senior professional educator license issued under this section or a professional educator license issued under section 3319.222 or former section 3319.22 of the Revised Code; | 26121 26122 26123 26124 |
| (c) Meet the criteria for the distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code; | 26125 26126 26127 |
| (d) Either hold a valid certificate issued by the national board for professional teaching standards or meet the criteria for a master teacher or other criteria for a lead teacher adopted by the educator standards board under division (F)(4) or (5) of section 3319.61 of the Revised Code. | 26128 26129 26130 26131 26132 |
| (C) The state board shall align the standards and qualifications for obtaining a principal license with the standards for principals adopted by the state board under section | 26133 26134 26135 |

3319.61 of the Revised Code. 26136

(D) If the state board requires any examinations for educator 26137
licensure, the department of education shall provide the results 26138
of such examinations received by the department to the chancellor 26139
of the Ohio board of regents, in the manner and to the extent 26140
permitted by state and federal law. 26141

(E) Any rules the state board of education adopts, amends, or 26142
rescinds for educator licenses under this section, division (D) of 26143
section 3301.07 of the Revised Code, or any other law shall be 26144
adopted, amended, or rescinded under Chapter 119. of the Revised 26145
Code except as follows: 26146

(1) Notwithstanding division (D) of section 119.03 and 26147
division (A)(1) of section 119.04 of the Revised Code, in the case 26148
of the adoption of any rule or the amendment or rescission of any 26149
rule that necessitates institutions' offering preparation programs 26150
for educators and other school personnel that are approved by the 26151
chancellor of the Ohio board of regents under section 3333.048 of 26152
the Revised Code to revise the curriculum of those programs, the 26153
effective date shall not be as prescribed in division (D) of 26154
section 119.03 and division (A)(1) of section 119.04 of the 26155
Revised Code. Instead, the effective date of such rules, or the 26156
amendment or rescission of such rules, shall be the date 26157
prescribed by section 3333.048 of the Revised Code. 26158

(2) Notwithstanding the authority to adopt, amend, or rescind 26159
emergency rules in division (F) of section 119.03 of the Revised 26160
Code, this authority shall not apply to the state board of 26161
education with regard to rules for educator licenses. 26162

(F)(1) The rules adopted under this section establishing 26163
standards requiring additional coursework for the renewal of any 26164
educator license shall require a school district and a chartered 26165
nonpublic school to establish local professional development 26166

committees. In a nonpublic school, the chief administrative 26167
officer shall establish the committees in any manner acceptable to 26168
such officer. The committees established under this division shall 26169
determine whether coursework that a district or chartered 26170
nonpublic school teacher proposes to complete meets the 26171
requirement of the rules. The department of education shall 26172
provide technical assistance and support to committees as the 26173
committees incorporate the professional development standards 26174
adopted by the state board of education pursuant to section 26175
3319.61 of the Revised Code into their review of coursework that 26176
is appropriate for license renewal. The rules shall establish a 26177
procedure by which a teacher may appeal the decision of a local 26178
professional development committee. 26179

(2) In any school district in which there is no exclusive 26180
representative established under Chapter 4117. of the Revised 26181
Code, the professional development committees shall be established 26182
as described in division (F)(2) of this section. 26183

Not later than the effective date of the rules adopted under 26184
this section, the board of education of each school district shall 26185
establish the structure for one or more local professional 26186
development committees to be operated by such school district. The 26187
committee structure so established by a district board shall 26188
remain in effect unless within thirty days prior to an anniversary 26189
of the date upon which the current committee structure was 26190
established, the board provides notice to all affected district 26191
employees that the committee structure is to be modified. 26192
Professional development committees may have a district-level or 26193
building-level scope of operations, and may be established with 26194
regard to particular grade or age levels for which an educator 26195
license is designated. 26196

Each professional development committee shall consist of at 26197
least three classroom teachers employed by the district, one 26198

principal employed by the district, and one other employee of the 26199
district appointed by the district superintendent. For committees 26200
with a building-level scope, the teacher and principal members 26201
shall be assigned to that building, and the teacher members shall 26202
be elected by majority vote of the classroom teachers assigned to 26203
that building. For committees with a district-level scope, the 26204
teacher members shall be elected by majority vote of the classroom 26205
teachers of the district, and the principal member shall be 26206
elected by a majority vote of the principals of the district, 26207
unless there are two or fewer principals employed by the district, 26208
in which case the one or two principals employed shall serve on 26209
the committee. If a committee has a particular grade or age level 26210
scope, the teacher members shall be licensed to teach such grade 26211
or age levels, and shall be elected by majority vote of the 26212
classroom teachers holding such a license and the principal shall 26213
be elected by all principals serving in buildings where any such 26214
teachers serve. The district superintendent shall appoint a 26215
replacement to fill any vacancy that occurs on a professional 26216
development committee, except in the case of vacancies among the 26217
elected classroom teacher members, which shall be filled by vote 26218
of the remaining members of the committee so selected. 26219

Terms of office on professional development committees shall 26220
be prescribed by the district board establishing the committees. 26221
The conduct of elections for members of professional development 26222
committees shall be prescribed by the district board establishing 26223
the committees. A professional development committee may include 26224
additional members, except that the majority of members on each 26225
such committee shall be classroom teachers employed by the 26226
district. Any member appointed to fill a vacancy occurring prior 26227
to the expiration date of the term for which a predecessor was 26228
appointed shall hold office as a member for the remainder of that 26229
term. 26230

The initial meeting of any professional development committee, upon election and appointment of all committee members, shall be called by a member designated by the district superintendent. At this initial meeting, the committee shall select a chairperson and such other officers the committee deems necessary, and shall adopt rules for the conduct of its meetings. Thereafter, the committee shall meet at the call of the chairperson or upon the filing of a petition with the district superintendent signed by a majority of the committee members calling for the committee to meet.

(3) In the case of a school district in which an exclusive representative has been established pursuant to Chapter 4117. of the Revised Code, professional development committees shall be established in accordance with any collective bargaining agreement in effect in the district that includes provisions for such committees.

If the collective bargaining agreement does not specify a different method for the selection of teacher members of the committees, the exclusive representative of the district's teachers shall select the teacher members.

If the collective bargaining agreement does not specify a different structure for the committees, the board of education of the school district shall establish the structure, including the number of committees and the number of teacher and administrative members on each committee; the specific administrative members to be part of each committee; whether the scope of the committees will be district levels, building levels, or by type of grade or age levels for which educator licenses are designated; the lengths of terms for members; the manner of filling vacancies on the committees; and the frequency and time and place of meetings. However, in all cases, except as provided in division (F)(4) of this section, there shall be a majority of teacher members of any

professional development committee, there shall be at least five 26263
total members of any professional development committee, and the 26264
exclusive representative shall designate replacement members in 26265
the case of vacancies among teacher members, unless the collective 26266
bargaining agreement specifies a different method of selecting 26267
such replacements. 26268

(4) Whenever an administrator's coursework plan is being 26269
discussed or voted upon, the local professional development 26270
committee shall, at the request of one of its administrative 26271
members, cause a majority of the committee to consist of 26272
administrative members by reducing the number of teacher members 26273
voting on the plan. 26274

(G)(1) The department of education, educational service 26275
centers, county boards of developmental disabilities, regional 26276
professional development centers, special education regional 26277
resource centers, college and university departments of education, 26278
head start programs, ~~the eTech Ohio commission~~, and the Ohio 26279
education computer network may establish local professional 26280
development committees to determine whether the coursework 26281
proposed by their employees who are licensed or certificated under 26282
this section or section 3319.222 of the Revised Code, or under the 26283
former version of either section as it existed prior to October 26284
16, 2009, meet the requirements of the rules adopted under this 26285
section. They may establish local professional development 26286
committees on their own or in collaboration with a school district 26287
or other agency having authority to establish them. 26288

Local professional development committees established by 26289
county boards of developmental disabilities shall be structured in 26290
a manner comparable to the structures prescribed for school 26291
districts in divisions (F)(2) and (3) of this section, as shall 26292
the committees established by any other entity specified in 26293
division (G)(1) of this section that provides educational services 26294

by employing or contracting for services of classroom teachers 26295
licensed or certificated under this section or section 3319.222 of 26296
the Revised Code, or under the former version of either section as 26297
it existed prior to October 16, 2009. All other entities specified 26298
in division (G)(1) of this section shall structure their 26299
committees in accordance with guidelines which shall be issued by 26300
the state board. 26301

(2) Any public agency that is not specified in division 26302
(G)(1) of this section but provides educational services and 26303
employs or contracts for services of classroom teachers licensed 26304
or certificated under this section or section 3319.222 of the 26305
Revised Code, or under the former version of either section as it 26306
existed prior to October 16, 2009, may establish a local 26307
professional development committee, subject to the approval of the 26308
department of education. The committee shall be structured in 26309
accordance with guidelines issued by the state board. 26310

Sec. 3319.235. (A) The standards for the preparation of 26311
teachers adopted under section 3333.048 of the Revised Code shall 26312
require any institution that provides a course of study for the 26313
training of teachers to ensure that graduates of such course of 26314
study are skilled at integrating educational technology in the 26315
instruction of children, as evidenced by the graduate having 26316
either demonstrated proficiency in such skills in a manner 26317
prescribed by the department of education or completed a course 26318
that includes training in such skills. 26319

(B) The ~~eTech Ohio commission~~ chancellor of the Ohio board of 26320
regents, in consultation with the department of education, shall 26321
establish model professional development programs to assist 26322
teachers who completed their teacher preparation prior to the 26323
effective date of division (A) of this section to become skilled 26324
at integrating educational technology in the instruction of 26325

children. The ~~commission~~ chancellor and department shall provide 26326
technical assistance to school districts wishing to establish such 26327
programs. 26328

(C) The chancellor may make grants to institutions of higher 26329
education and other organizations for the provision of 26330
professional development programs related to the implementation of 26331
educational technology, including use of the distance learning 26332
clearinghouse established under sections 3333.81 to 3333.88 of the 26333
Revised Code. 26334

Sec. 3333.04. The chancellor of the Ohio board of regents 26335
shall: 26336

(A) Make studies of state policy in the field of higher 26337
education and formulate a master plan for higher education for the 26338
state, considering the needs of the people, the needs of the 26339
state, and the role of individual public and private institutions 26340
within the state in fulfilling these needs; 26341

(B)(1) Report annually to the governor and the general 26342
assembly on the findings from the chancellor's studies and the 26343
master plan for higher education for the state; 26344

(2) Report at least semiannually to the general assembly and 26345
the governor the enrollment numbers at each state-assisted 26346
institution of higher education. 26347

(C) Approve or disapprove the establishment of new branches 26348
or academic centers of state colleges and universities; 26349

(D) Approve or disapprove the establishment of state 26350
technical colleges or any other state institution of higher 26351
education; 26352

(E) Recommend the nature of the programs, undergraduate, 26353
graduate, professional, state-financed research, and public 26354
services which should be offered by the state colleges, 26355

universities, and other state-assisted institutions of higher 26356
education in order to utilize to the best advantage their 26357
facilities and personnel; 26358

(F) Recommend to the state colleges, universities, and other 26359
state-assisted institutions of higher education graduate or 26360
professional programs, including, but not limited to, doctor of 26361
philosophy, doctor of education, and juris doctor programs, that 26362
could be eliminated because they constitute unnecessary 26363
duplication, as shall be determined using the process developed 26364
pursuant to this division, or for other good and sufficient cause. 26365
Prior to recommending a program for elimination, the chancellor 26366
shall request the board of regents to hold at least one public 26367
hearing on the matter and advise the chancellor on whether the 26368
program should be recommended for elimination. The board shall 26369
provide notice of each hearing within a reasonable amount of time 26370
prior to its scheduled date. Following the hearing, the board 26371
shall issue a recommendation to the chancellor. The chancellor 26372
shall consider the board's recommendation but shall not be 26373
required to accept it. 26374

For purposes of determining the amounts of any state 26375
instructional subsidies paid to state colleges, universities, and 26376
other state-assisted institutions of higher education, the 26377
chancellor may exclude students enrolled in any program that the 26378
chancellor has recommended for elimination pursuant to this 26379
division except that the chancellor shall not exclude any such 26380
student who enrolled in the program prior to the date on which the 26381
chancellor initially commences to exclude students under this 26382
division. 26383

The chancellor and state colleges, universities, and other 26384
state-assisted institutions of higher education shall jointly 26385
develop a process for determining which existing graduate or 26386
professional programs constitute unnecessary duplication. 26387

(G) Recommend to the state colleges, universities, and other state-assisted institutions of higher education programs which should be added to their present programs; 26388
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26390

(H) Conduct studies for the state colleges, universities, and other state-assisted institutions of higher education to assist them in making the best and most efficient use of their existing facilities and personnel; 26391
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(I) Make recommendations to the governor and general assembly concerning the development of state-financed capital plans for higher education; the establishment of new state colleges, universities, and other state-assisted institutions of higher education; and the establishment of new programs at the existing state colleges, universities, and other institutions of higher education; 26395
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(J) Review the appropriation requests of the public community colleges and the state colleges and universities and submit to the office of budget and management and to the chairpersons of the finance committees of the house of representatives and of the senate the chancellor's recommendations in regard to the biennial higher education appropriation for the state, including appropriations for the individual state colleges and universities and public community colleges. For the purpose of determining the amounts of instructional subsidies to be paid to state-assisted colleges and universities, the chancellor shall define "full-time equivalent student" by program per academic year. The definition may take into account the establishment of minimum enrollment levels in technical education programs below which support allowances will not be paid. Except as otherwise provided in this section, the chancellor shall make no change in the definition of "full-time equivalent student" in effect on November 15, 1981, which would increase or decrease the number of subsidy-eligible full-time equivalent students, without first submitting a fiscal 26402
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impact statement to the president of the senate, the speaker of 26420
the house of representatives, the legislative service commission, 26421
and the director of budget and management. The chancellor shall 26422
work in close cooperation with the director of budget and 26423
management in this respect and in all other matters concerning the 26424
expenditures of appropriated funds by state colleges, 26425
universities, and other institutions of higher education. 26426

(K) Seek the cooperation and advice of the officers and 26427
trustees of both public and private colleges, universities, and 26428
other institutions of higher education in the state in performing 26429
the chancellor's duties and making the chancellor's plans, 26430
studies, and recommendations; 26431

(L) Appoint advisory committees consisting of persons 26432
associated with public or private secondary schools, members of 26433
the state board of education, or personnel of the state department 26434
of education; 26435

(M) Appoint advisory committees consisting of college and 26436
university personnel, or other persons knowledgeable in the field 26437
of higher education, or both, in order to obtain their advice and 26438
assistance in defining and suggesting solutions for the problems 26439
and needs of higher education in this state; 26440

(N) Approve or disapprove all new degrees and new degree 26441
programs at all state colleges, universities, and other 26442
state-assisted institutions of higher education; 26443

(O) Adopt such rules as are necessary to carry out the 26444
chancellor's duties and responsibilities. The rules shall 26445
prescribe procedures for the chancellor to follow when taking 26446
actions associated with the chancellor's duties and 26447
responsibilities and shall indicate which types of actions are 26448
subject to those procedures. The procedures adopted under this 26449
division shall be in addition to any other procedures prescribed 26450

by law for such actions. However, if any other provision of the Revised Code or rule adopted by the chancellor prescribes different procedures for such an action, the procedures adopted under this division shall not apply to that action to the extent they conflict with the procedures otherwise prescribed by law. The procedures adopted under this division shall include at least the following:

(1) Provision for public notice of the proposed action;

(2) An opportunity for public comment on the proposed action, which may include a public hearing on the action by the board of regents;

(3) Methods for parties that may be affected by the proposed action to submit comments during the public comment period;

(4) Submission of recommendations from the board of regents regarding the proposed action, at the request of the chancellor;

(5) Written publication of the final action taken by the chancellor and the chancellor's rationale for the action;

(6) A timeline for the process described in divisions (0)(1) to (5) of this section.

~~(P) Establish and submit to the governor and the general assembly a clear and measurable set of goals and timetables for their achievement for each program under the chancellor's supervision that is designed to accomplish any of the following:~~

~~(1) Increased access to higher education;~~

~~(2) Job training;~~

~~(3) Adult literacy;~~

~~(4) Research;~~

~~(5) Excellence in higher education;~~

~~(6) Reduction in the number of graduate programs within the~~

~~same subject area.~~ 26480

~~In July of each odd numbered year, the chancellor shall~~ 26481
~~submit to the governor and the general assembly a report on~~ 26482
~~progress made toward these goals.~~ 26483

~~(Q)~~ Make recommendations to the governor and the general 26484
assembly regarding the design and funding of the student financial 26485
aid programs specified in sections 3333.12, 3333.122, 3333.21 to 26486
3333.26, and 5910.02 of the Revised Code; 26487

~~(R)~~(O) Participate in education-related state or federal 26488
programs on behalf of the state and assume responsibility for the 26489
administration of such programs in accordance with applicable 26490
state or federal law; 26491

~~(S)~~(R) Adopt rules for student financial aid programs as 26492
required by sections 3333.12, 3333.122, 3333.21 to 3333.26, 26493
3333.28, and 5910.02 of the Revised Code, and perform any other 26494
administrative functions assigned to the chancellor by those 26495
sections; 26496

~~(T)~~(S) Conduct enrollment audits of state-supported 26497
institutions of higher education; 26498

~~(U)~~(T) Appoint consortia of college and university personnel 26499
to advise or participate in the development and operation of 26500
statewide collaborative efforts, including the Ohio supercomputer 26501
center, the Ohio academic resources network, OhioLink, and the 26502
Ohio learning network. For each consortium, the chancellor shall 26503
designate a college or university to serve as that consortium's 26504
fiscal agent, financial officer, and employer. Any funds 26505
appropriated for the consortia shall be distributed to the fiscal 26506
agents for the operation of the consortia. A consortium shall 26507
follow the rules of the college or university that serves as its 26508
fiscal agent. The chancellor may restructure existing consortia, 26509
appointed under this division, in accordance with procedures 26510

adopted under divisions ~~(D)~~(O)(1) to (6) of this section. 26511

~~(V)~~(U) Adopt rules establishing advisory duties and 26512
responsibilities of the board of regents not otherwise prescribed 26513
by law; 26514

~~(W)~~(V) Respond to requests for information about higher 26515
education from members of the general assembly and direct staff to 26516
conduct research or analysis as needed for this purpose. 26517

Sec. 3333.041. (A) On or before the last day of December of 26518
each year, the chancellor of the Ohio board of regents shall 26519
submit ~~a report~~ to the governor and, in accordance with section 26520
101.68 of the Revised Code, the general assembly, the state board 26521
of education, and the board of education of each city, exempted 26522
village, and local school district on the a report or reports 26523
concerning all of the following: 26524

(1) The status of graduates of Ohio school districts at 26525
~~state assisted colleges or universities~~ state institutions of 26526
higher education during the twelve-month period ending on the 26527
thirtieth day of September of the current calendar year. The 26528
report shall list, by school district, the number of graduates of 26529
each school district who attended ~~such a college or university~~ 26530
state institution of higher education and the percentage of each 26531
district's graduates enrolled in ~~such a college or university~~ 26532
state institution of higher education during the reporting period 26533
who were required during such period by the college or university, 26534
as a prerequisite to enrolling in those courses generally required 26535
for first-year students, to enroll in a remedial course in 26536
English, including composition or reading, mathematics, and any 26537
other area designated by the ~~board~~ chancellor. The chancellor also 26538
shall make the information described in division (A)(1) of this 26539
section available to the board of education of each city, exempted 26540
village, and local school district. 26541

Each state-assisted college and university state institution 26542
of higher education shall, by the first day of November of each 26543
year, submit to the chancellor in the form specified by the 26544
chancellor the information the chancellor requires to compile the 26545
report. 26546

(2) Aggregate academic growth data for students assigned to 26547
graduates of teacher preparation programs approved under section 26548
3333.048 of the Revised Code who teach English language arts or 26549
mathematics in any of grades four to eight in a public school in 26550
Ohio. For this purpose, the chancellor shall use the value-added 26551
progress dimension prescribed by section 3302.021 of the Revised 26552
Code. The chancellor shall aggregate the data by graduating class 26553
for each approved teacher preparation program, except that if a 26554
particular class has ten or fewer graduates to which this section 26555
applies, the chancellor shall report the data for a group of 26556
classes over a three-year period. In no case shall the report 26557
identify any individual graduate. The department of education 26558
shall share any data necessary for the report with the chancellor. 26559

(3) The following information with respect to the Ohio 26560
tuition trust authority: 26561

(a) The name of each investment manager that is a minority 26562
business enterprise or a women's business enterprise with which 26563
the chancellor contracts; 26564

(b) The amount of assets managed by investment managers that 26565
are minority business enterprises or women's business enterprises, 26566
expressed as a percentage of assets managed by investment managers 26567
with which the chancellor has contracted; 26568

(c) Efforts by the chancellor to increase utilization of 26569
investment managers that are minority business enterprises or 26570
women's business enterprises. 26571

(4) The status of implementation of faculty improvement 26572

programs under section 3345.28 of the Revised Code. The report 26573
shall include, but need not be limited to, the following: the 26574
number of professional leave grants made by each institution; the 26575
purpose of each professional leave; and a statement of the cost to 26576
the institution of each professional leave, to the extent that the 26577
cost exceeds the salary of the faculty member on professional 26578
leave. 26579

(5) The number and types of biobased products purchased under 26580
section 125.092 of the Revised Code and the amount of money spent 26581
by state institutions of higher education for those biobased 26582
products as that information is provided to the chancellor under 26583
division (A) of section 3345.692 of the Revised Code. 26584

(6) A description of dual enrollment programs, as defined in 26585
section 3313.6013 of the Revised Code, that are offered by school 26586
districts, community schools established under Chapter 3314. of 26587
the Revised Code, STEM schools established under Chapter 3326. of 26588
the Revised Code, college-preparatory boarding schools established 26589
under Chapter 3328. of the Revised Code, and chartered nonpublic 26590
high schools. The chancellor also shall post the information on 26591
the chancellor's web site. 26592

(7) The academic and economic impact of the Ohio innovation 26593
partnership established under section 3333.61 of the Revised Code. 26594
At a minimum, the report shall include the following: 26595

(a) Progress and performance metrics for each initiative that 26596
received an award in the previous fiscal year; 26597

(b) Economic indicators of the impact of each initiative, and 26598
all initiatives as a whole, on the regional economies and the 26599
statewide economy; 26600

(c) The chancellor's strategy in assigning choose Ohio first 26601
scholarships among state universities and colleges and how the 26602
actual awards fit that strategy. 26603

(8) The academic and economic impact of the Ohio co-op/internship program established under section 3333.72 of the Revised Code. At a minimum, the report shall include the following: 26604
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(a) Progress and performance metrics for each initiative that received an award in the previous fiscal year; 26608
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(b) Economic indicators of the impact of each initiative, and all initiatives as a whole, on the regional economies and the statewide economy; 26610
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(c) The chancellor's strategy in allocating awards among state institutions of higher education and how the actual awards fit that strategy. 26613
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~~(B) As used in this section, "state-assisted college or university" means a state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community colleges, state community colleges, university branches, and technical colleges.:~~ 26616
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(1) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code. 26621
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(2) "State institution of higher education" and "state university" have the same meanings as in section 3345.011 of the Revised Code. 26623
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(3) "State university or college" has the same meaning as in section 3345.12 of the Revised Code. 26626
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(4) "Women's business enterprise" means a business, or a partnership, corporation, limited liability company, or joint venture of any kind, that is owned and controlled by women who are United States citizens and residents of this state. 26628
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Sec. 3333.123. (A) As used in this section: 26632

(1) "The Ohio college opportunity grant program" means the program established under section 3333.122 of the Revised Code.

(2) "Rules for the Ohio college opportunity grant program" means the rules authorized in division ~~(S)~~(R) of section 3333.04 of the Revised Code for the implementation of the program.

(B) In adopting rules for the Ohio college opportunity grant program, the chancellor of the Ohio board of regents may include provisions that give preferential or priority funding to low-income students who in their primary and secondary school work participate in or complete rigorous academic coursework, attain passing scores on the assessments prescribed in section 3301.0710 of the Revised Code, or meet other high academic performance standards determined by the chancellor to reduce the need for remediation and ensure academic success at the postsecondary education level. Any such rules shall include a specification of procedures needed to certify student achievement of primary and secondary standards as well as the timeline for implementation of the provisions authorized by this section.

Sec. 3333.21. As used in sections 3333.21 to 3333.23 of the Revised Code, "term" and "academic year" mean "term" and "academic year" as defined by the chancellor of the Ohio board of regents.

The chancellor shall establish and administer an academic scholarship program. Under the program, a total of one thousand new scholarships shall be awarded annually in the amount of not less than two thousand dollars per award. At least one such new scholarship shall be awarded annually to a student in each public high school and joint vocational school and each nonpublic high school for which the state board of education prescribes minimum standards in accordance with section 3301.07 of the Revised Code.

To be eligible for the award of a scholarship, a student shall be a resident of Ohio and shall be enrolled as a full-time

undergraduate student in an Ohio institution of higher education 26664
that meets the requirements of Title VI of the "Civil Rights Act 26665
of 1964" and is state-assisted, is nonprofit and holds a 26666
certificate of authorization issued under section 1713.02 of the 26667
Revised Code, is a private institution exempt from regulation 26668
under Chapter 3332. of the Revised Code as prescribed in section 26669
3333.046 of the Revised Code, or holds a certificate of 26670
registration and program authorization issued under section 26671
3332.05 of the Revised Code and awards an associate or bachelor's 26672
degree. Students who attend an institution holding a certificate 26673
of registration shall be enrolled in a program leading to an 26674
associate or bachelor's degree for which associate or bachelor's 26675
degree program the institution has program authorization to offer 26676
the program issued under section 3332.05 of the Revised Code. 26677

"Resident" and "full-time student" shall be defined in rules 26678
adopted by the chancellor. 26679

The chancellor shall award the scholarships on the basis of a 26680
formula designed by the chancellor to identify students with the 26681
highest capability for successful college study. The formula shall 26682
weigh the factor of achievement, as measured by grade point 26683
average, and the factor of ability, as measured by performance on 26684
a competitive examination specified by the chancellor. Students 26685
receiving scholarships shall be known as "Ohio academic scholars." 26686
~~Annually, not later than the thirty first day of July, the 26687~~
~~chancellor shall report to the governor and the general assembly 26688~~
~~on the performance of current Ohio academic scholars and the 26689~~
~~effectiveness of the formula. 26690~~

Sec. ~~3333.90~~ 3333.59. (A) As used in this section: 26691

(1) "Allocated state share of instruction" means, for any 26692
fiscal year, the amount of the state share of instruction 26693
appropriated to the Ohio board of regents by the general assembly 26694

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| that is allocated to a community or technical college or community or technical college district for such fiscal year. | 26695 26696 |
| (2) "Issuing authority" has the same meaning as in section 154.01 of the Revised Code. | 26697 26698 |
| (3) "Bond service charges" has the same meaning as in section 154.01 of the Revised Code. | 26699 26700 |
| (4) "Chancellor" means the chancellor of the Ohio board of regents. | 26701 26702 |
| (5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education: | 26703 26704 26705 |
| (a) A community college as defined in section 3354.01 of the Revised Code; | 26706 26707 |
| (b) A technical college as defined in section 3357.01 of the Revised Code; | 26708 26709 |
| (c) A state community college as defined in section 3358.01 of the Revised Code. | 26710 26711 |
| (6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted: | 26712 26713 26714 |
| (a) A community college district as defined in section 3354.01 of the Revised Code; | 26715 26716 |
| (b) A technical college district as defined in section 3357.01 of the Revised Code; | 26717 26718 |
| (c) A state community college district as defined in section 3358.01 of the Revised Code. | 26719 26720 |
| (7) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code. | 26721 26722 |
| (8) "Obligations" has the meaning as in section 154.01 or | 26723 |

3345.12 of the Revised Code, as the context requires. 26724

(B) The board of trustees of any community or technical 26725
college district authorizing the issuance of obligations under 26726
section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the 26727
Revised Code, or for whose benefit and on whose behalf the issuing 26728
authority proposes to issue obligations under section 154.25 of 26729
the Revised Code, may adopt a resolution requesting the chancellor 26730
to enter into an agreement with the community or technical college 26731
district and the primary paying agent or fiscal agent for such 26732
obligations, providing for the withholding and deposit of funds 26733
otherwise due the district or the community or technical college 26734
it operates in respect of its allocated state share of 26735
instruction, for the payment of bond service charges on such 26736
obligations. 26737

The board of trustees shall deliver to the chancellor a copy 26738
of the resolution and any additional pertinent information the 26739
chancellor may require. 26740

The chancellor and the office of budget and management, and 26741
the issuing authority in the case of obligations to be issued by 26742
the issuing authority, shall evaluate each request received from a 26743
community or technical college district under this section. The 26744
chancellor, with the advice and consent of the director of budget 26745
and management and the issuing authority in the case of 26746
obligations to be issued by the issuing authority, shall approve 26747
each request if all of the following conditions are met: 26748

(1) Approval of the request will enhance the marketability of 26749
the obligations for which the request is made; 26750

(2) The chancellor and the office of budget and management, 26751
and the issuing authority in the case of obligations to be issued 26752
by the issuing authority, have no reason to believe the requesting 26753
community or technical college district or the community or 26754

technical college it operates will be unable to pay when due the 26755
bond service charges on the obligations for which the request is 26756
made, and bond service charges on those obligations are therefore 26757
not anticipated to be paid pursuant to this section from the 26758
allocated state share of instruction for purposes of Section 17 of 26759
Article VIII, Ohio Constitution. 26760

(3) Any other pertinent conditions established in rules 26761
adopted under division (H) of this section. 26762

(C) If the chancellor approves the request of a community or 26763
technical college district to withhold and deposit funds pursuant 26764
to this section, the chancellor shall enter into a written 26765
agreement with the district and the primary paying agent or fiscal 26766
agent for the obligations, which agreement shall provide for the 26767
withholding of funds pursuant to this section for the payment of 26768
bond service charges on those obligations. The agreement may also 26769
include both of the following: 26770

(1) Provisions for certification by the district to the 26771
chancellor, prior to the deadline for payment of the applicable 26772
bond service charges, whether the district and the community or 26773
technical college it operates are able to pay those bond service 26774
charges when due; 26775

(2) Requirements that the district or the community or 26776
technical college it operates deposits amounts for the payment of 26777
those bond service charges with the primary paying agent or fiscal 26778
agent for the obligations prior to the date on which the bond 26779
service charges are due to the owners or holders of the 26780
obligations. 26781

(D) Whenever a district or the community or technical college 26782
it operates notifies the chancellor that it will not be able to 26783
pay the bond service charges when they are due, subject to the 26784
withholding provisions of this section, or whenever the applicable 26785

paying agent or fiscal agent notifies the chancellor that it has 26786
not timely received from a district or from the college it 26787
operates the full amount needed for payment of the bond service 26788
charges when due to the holders or owners of such obligations, the 26789
chancellor shall immediately contact the district or college and 26790
the paying agent or fiscal agent to confirm that the district and 26791
the college are not able to make the required payment by the date 26792
on which it is due. 26793

If the chancellor confirms that the district and the college 26794
are not able to make the payment and the payment will not be made 26795
pursuant to a credit enhancement facility, the chancellor shall 26796
promptly pay to the applicable primary paying agent or fiscal 26797
agent the lesser of the amount due for bond service charges or the 26798
amount of the next periodic distribution scheduled to be made to 26799
the district or to the college in respect of its allocated state 26800
share of instruction. If this amount is insufficient to pay the 26801
total amount then due the agent for the payment of bond service 26802
charges, the chancellor shall continue to pay to the agent from 26803
each periodic distribution thereafter, and until the full amount 26804
due the agent for unpaid bond service charges is paid in full, the 26805
lesser of the remaining amount due the agent for bond service 26806
charges or the amount of the next periodic distribution scheduled 26807
to be made to the district or college in respect of its allocated 26808
state share of instruction. 26809

(E) The chancellor may make any payments under this section 26810
by direct deposit of funds by electronic transfer. 26811

Any amount received by a paying agent or fiscal agent under 26812
this section shall be applied only to the payment of bond service 26813
charges on the obligations of the community or technical college 26814
district or community or technical college subject to this section 26815
or to the reimbursement of the provider of a credit enhancement 26816
facility that has paid the bond service charges. 26817

(F) The chancellor may make payments under this section to 26818
paying agents or fiscal agents during any fiscal biennium of the 26819
state only from and to the extent that money is appropriated to 26820
the board of regents by the general assembly for distribution 26821
during such biennium for the state share of instruction and only 26822
to the extent that a portion of the state share of instruction has 26823
been allocated to the community or technical college district or 26824
community or technical college. Obligations of the issuing 26825
authority or of a community or technical college district to which 26826
this section is made applicable do not constitute an obligation or 26827
a debt or a pledge of the faith, credit, or taxing power of the 26828
state, and the holders or owners of those obligations have no 26829
right to have excises or taxes levied or appropriations made by 26830
the general assembly for the payment of bond service charges on 26831
the obligations, and the obligations shall contain a statement to 26832
that effect. The agreement for or the actual withholding and 26833
payment of money under this section does not constitute the 26834
assumption by the state of any debt of a community or technical 26835
college district or a community or technical college, and bond 26836
service charges on the related obligations are not anticipated to 26837
be paid from the state general revenue fund for purposes of 26838
Section 17 of Article VIII, Ohio Constitution. 26839

(G) In the case of obligations subject to the withholding 26840
provisions of this section, the issuing community or technical 26841
college district, or the issuing authority in the case of 26842
obligations issued by the issuing authority, shall appoint a 26843
paying agent or fiscal agent who is not an officer or employee of 26844
the district or college. 26845

(H) The chancellor, with the advice and consent of the office 26846
of budget and management, may adopt reasonable rules not 26847
inconsistent with this section for the implementation of this 26848
section to secure payment of bond service charges on obligations 26849

issued by a community or technical college district or by the 26850
issuing authority for the benefit of a community or technical 26851
college district or the community or technical college it 26852
operates. Those rules shall include criteria for the evaluation 26853
and approval or denial of community or technical college district 26854
requests for withholding under this section. 26855

(I) The authority granted by this section is in addition to 26856
and not a limitation on any other authorizations granted by or 26857
pursuant to law for the same or similar purposes. 26858

Sec. 3333.60. As used in sections 3333.61 to ~~3333.70~~ 3333.69 26859
of the Revised Code: 26860

(A) "State university or college" has the same meaning as in 26861
section 3345.12 of the Revised Code. 26862

(B) "State university" and "state institution of higher 26863
education" have the same meanings as in section 3345.011 of the 26864
Revised Code. 26865

Sec. 3333.61. The chancellor of the Ohio board of regents 26866
shall establish and administer the Ohio innovation partnership, 26867
which shall consist of the choose Ohio first scholarship program 26868
and the Ohio research scholars program. Under the programs, the 26869
chancellor, subject to approval by the controlling board, shall 26870
make awards to state universities or colleges for programs and 26871
initiatives that recruit students and scientists in the fields of 26872
science, technology, engineering, mathematics, and medicine to 26873
state universities or colleges, in order to enhance regional 26874
educational and economic strengths and meet the needs of the 26875
state's regional economies. Awards may be granted for programs and 26876
initiatives to be implemented by a state university or college 26877
alone or in collaboration with other state institutions of higher 26878
education, nonpublic Ohio universities and colleges, or other 26879

public or private Ohio entities. If the chancellor makes an award 26880
to a program or initiative that is intended to be implemented by a 26881
state university or college in collaboration with other state 26882
institutions of higher education or nonpublic Ohio universities or 26883
colleges, the chancellor may provide that some portion of the 26884
award be received directly by the collaborating universities or 26885
colleges consistent with all terms of the Ohio innovation 26886
partnership. 26887

The choose Ohio first scholarship program shall assign a 26888
number of scholarships to state universities and colleges to 26889
recruit Ohio residents as undergraduate, or as provided in section 26890
3333.66 of the Revised Code graduate, students in the fields of 26891
science, technology, engineering, mathematics, and medicine, or in 26892
science, technology, engineering, mathematics, or medical 26893
education. Choose Ohio first scholarships shall be awarded to each 26894
participating eligible student as a grant to the state university 26895
or college the student is attending and shall be reflected on the 26896
student's tuition bill. Choose Ohio first scholarships are 26897
student-centered grants from the state to students to use to 26898
attend a university or college and are not grants from the state 26899
to universities or colleges. 26900

Notwithstanding any other provision of this section or 26901
sections 3333.62 to ~~3333.70~~ 3333.69 of the Revised Code, a 26902
nonpublic four-year Ohio institution of higher education may 26903
submit a proposal for choose Ohio first scholarships or Ohio 26904
research scholars grants. If the chancellor awards a nonpublic 26905
institution scholarships or grants, the nonpublic institution 26906
shall comply with all requirements of this section, sections 26907
3333.62 to ~~3333.70~~ 3333.69 of the Revised Code, and the rules 26908
adopted under this section that apply to state universities or 26909
colleges awarded choose Ohio first scholarships or Ohio research 26910
scholars grants. 26911

The Ohio research scholars program shall award grants to use 26912
in recruiting scientists to the faculties of state universities or 26913
colleges. 26914

The chancellor shall adopt rules in accordance with Chapter 26915
119. of the Revised Code to administer the programs. 26916

Sec. 3333.71. As used in sections 3333.71 to ~~3333.80~~ 3333.79 26917
of the Revised Code: 26918

(A) "Cooperative education program" means a partnership 26919
between students, institutions of higher education, and employers 26920
that formally integrates students' academic study with work 26921
experience in cooperating employer organizations and that meets 26922
all of the following conditions: 26923

(1) Alternates or combines periods of academic study and work 26924
experience in appropriate fields as an integral part of student 26925
education; 26926

(2) Provides students with compensation from the cooperative 26927
employer in the form of wages or salaries for work performed; 26928

(3) Evaluates each participating student's performance in the 26929
cooperative position, both from the perspective of the student's 26930
institution of higher education and the student's cooperative 26931
employer; 26932

(4) Provides participating students with academic credit from 26933
the institution of higher education upon successful completion of 26934
their cooperative education; 26935

(5) Is part of an overall degree or certificate program for 26936
which a percentage of the total program acceptable to the 26937
chancellor of the Ohio board of regents involves cooperative 26938
education. 26939

(B) "Internship program" means a partnership between 26940
students, institutions of higher education, and employers that 26941

formally integrates students' academic study with work or 26942
community service experience and that does both of the following: 26943

(1) Offers internships of specified and definite duration; 26944

(2) Evaluates each participating student's performance in the 26945
internship position, both from the perspective of the student's 26946
institution of higher education and the student's internship 26947
employer. 26948

An internship program may provide participating students with 26949
academic credit upon successful completion of the internship, and 26950
may provide students with compensation in the form of wages or 26951
salaries, stipends, or scholarships. 26952

(C) "Nonpublic university or college" means a nonprofit 26953
institution holding a certificate of authorization issued under 26954
Chapter 1713. of the Revised Code. 26955

(D) "State institution of higher education" has the same 26956
meaning as in section 3345.011 of the Revised Code. 26957

Sec. 3333.72. The chancellor of the Ohio board of regents 26958
shall establish and administer the Ohio co-op/internship program 26959
to promote and encourage cooperative education programs or 26960
internship programs at Ohio institutions of higher education for 26961
the purpose of recruiting Ohio students to stay in the state, and 26962
recruiting Ohio residents who left Ohio to attend out-of-state 26963
institutions of higher education back to Ohio institutions of 26964
higher education, to participate in high quality academic programs 26965
that use cooperative education programs or significant internship 26966
programs, in order to support the growth of Ohio's businesses by 26967
providing businesses with Ohio's most talented students and 26968
providing Ohio graduates with job opportunities with Ohio's 26969
growing companies. 26970

The chancellor, subject to approval by the controlling board, 26971

shall make awards to state institutions of higher education for 26972
new or existing programs and initiatives meeting the goals of the 26973
Ohio co-op/internship program. Awards may be granted for programs 26974
and initiatives to be implemented by a state institution of higher 26975
education alone or in collaboration with other state institutions 26976
of higher education or nonpublic Ohio universities and colleges. 26977
If the chancellor makes an award to a program or initiative that 26978
is intended to be implemented by a state institution of higher 26979
education in collaboration with other state institutions of higher 26980
education or nonpublic Ohio universities or colleges, the 26981
chancellor may provide that some portion of the award be received 26982
directly by the collaborating universities or colleges consistent 26983
with all terms of the Ohio co-op/internship program. 26984

The Ohio co-op/internship program shall support the creation 26985
and maintenance of high quality academic programs that utilize an 26986
intensive cooperative education or internship program for students 26987
at state institutions of higher education, or assign a number of 26988
scholarships to institutions to recruit Ohio residents as students 26989
in a high quality academic program, or both. If scholarships are 26990
included in an award to an institution of higher education, the 26991
scholarships shall be awarded to each participating eligible 26992
student as a grant to the state institution of higher education 26993
the student is attending and shall be reflected on the student's 26994
tuition bill. 26995

Notwithstanding any other provision of this section or 26996
sections 3333.73 to ~~3333.80~~ 3333.79 of the Revised Code, an Ohio 26997
four-year nonpublic university or college may submit a proposal as 26998
lead applicant or co-lead applicant for an award under the Ohio 26999
co-op/internship program if the proposal is to be implemented in 27000
collaboration with a state institution of higher education. If the 27001
chancellor grants a nonpublic university or college an award, the 27002
nonpublic university or college shall comply with all requirements 27003

of this section, sections 3333.73 to ~~3333.80~~ 3333.79 of the Revised Code, and the rules adopted under this section that apply to state institutions of higher education that receive awards under the program.

The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the Ohio co-op/internship program.

Sec. 3333.82. (A) The chancellor of the Ohio board of regents shall establish a clearinghouse of interactive distance learning courses and other distance learning courses delivered via a computer-based method offered by school districts, community schools, STEM schools, state institutions of higher education, private colleges and universities, and other nonprofit and for-profit course providers for sharing with other school districts, community schools, STEM schools, state institutions of higher education, private colleges and universities, and individuals for the fee set pursuant to section 3333.84 of the Revised Code. The chancellor shall not be responsible for the content of courses offered through the clearinghouse; however, all such courses shall be delivered only in accordance with technical specifications approved by the chancellor and on a common statewide platform administered by the chancellor.

The clearinghouse's distance learning program for students in grades kindergarten to twelve shall be based on the following principles:

(1) All Ohio students shall have access to high quality distance learning courses at any point in their educational careers.

(2) All students shall be able to customize their education using distance learning courses offered through the clearinghouse and no student shall be denied access to any course in the

clearinghouse in which the student is eligible to enroll. 27035

(3) Students may take distance learning courses for all or 27036
any portion of their curriculum requirements and may utilize a 27037
combination of distance learning courses and courses taught in a 27038
traditional classroom setting. 27039

(4) Students may earn an unlimited number of academic credits 27040
through distance learning courses. 27041

(5) Students may take distance learning courses at any time 27042
of the calendar year. 27043

(6) Student advancement to higher coursework shall be based 27044
on a demonstration of subject area competency instead of 27045
completion of any particular number of hours of instruction. 27046

(B) To offer a course through the clearinghouse, a course 27047
provider shall apply to the chancellor in a form and manner 27048
prescribed by the chancellor. The application for each course 27049
shall describe the course of study in as much detail as required 27050
by the chancellor, whether an instructor is provided, the 27051
qualification and credentials of the instructor, the number of 27052
hours of instruction, and any other information required by the 27053
chancellor. The chancellor may require course providers to include 27054
in their applications information recommended by the state board 27055
of education under former section 3353.30 of the Revised Code. 27056

(C) The chancellor shall review the technical specifications 27057
of each application submitted under division (B) of this section. 27058
In reviewing applications, the chancellor may consult with the 27059
department of education; however, the responsibility to either 27060
approve or not approve a course for the clearinghouse belongs to 27061
the chancellor. The chancellor may request additional information 27062
from a course provider that submits an application under division 27063
(B) of this section, if the chancellor determines that such 27064
information is necessary. The chancellor may negotiate changes in 27065

the proposal to offer a course, if the chancellor determines that 27066
changes are necessary in order to approve the course. 27067

(D) The chancellor shall catalog each course approved for the 27068
clearinghouse, through a print or electronic medium, displaying 27069
the following: 27070

(1) Information necessary for a student and the student's 27071
parent, guardian, or custodian and the student's school district, 27072
community school, STEM school, college, or university to decide 27073
whether to enroll in or subscribe to the course; 27074

(2) Instructions for enrolling in that course, including 27075
deadlines for enrollment. 27076

(E) Any expenses related to the installation of a course into 27077
the common statewide platform shall be borne by the course 27078
provider. 27079

(F) The ~~eTech Ohio commission, in consultation with the~~ 27080
chancellor and the state board, shall distribute information to 27081
students and parents describing the clearinghouse. The information 27082
shall be provided in an easily understandable format. 27083

Sec. ~~3353.01~~ 3333.89. As used in ~~this chapter~~ sections 27084
3333.90 to 3333.92 of the Revised Code: 27085

(A) "Educational television or radio" means television or 27086
radio programs which serve the educational needs of the community 27087
and which meet the requirements of the federal communications 27088
commission for noncommercial educational television or radio. 27089

(B) "Educational telecommunications network" means a system 27090
of connected educational television, radio, or radio reading 27091
service facilities and coordinated programs established and 27092
operated or controlled by the eTech Ohio commission, pursuant to 27093
this chapter. 27094

(C) "Transmission" means the sending out of television, 27095

radio, or radio reading service programs, either directly to the public, or to broadcasting stations or services for simultaneous broadcast or rebroadcast.

(D) "Transmission facilities" means structures, equipment, material, and services used in the transmission of educational television, radio, or radio reading service programs.

(E) "Interconnection facilities" means the equipment, material, and services used to link one location to another location or to several locations by means of telephone line, coaxial cable, microwave relays, or other available technologies.

(F) "Broadcasting station" means a properly licensed noncommercial educational television or radio station, appropriately staffed and equipped to produce programs or lessons and to broadcast programs.

(G) "Radio reading service" means a nonprofit organization that disseminates news and other information to blind and physically handicapped persons.

(H) "Affiliate" means an educational telecommunication entity, including a television or radio broadcasting station or radio reading service.

Sec. 3333.90. (A) The chancellor of the Ohio board of regents shall do all of the following regarding the management and oversight of the state's educational telecommunications activities:

(1) Own or operate transmission facilities and interconnection facilities, or contract for transmission facilities and interconnection facilities, for an educational television, radio, or radio reading service network;

(2) Establish standards for interconnection facilities used by the chancellor in the transmission of educational television,

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| <u>radio, or radio reading service programming;</u> | 27126 |
| <u>(3) Enter into agreements with noncommercial educational</u> | 27127 |
| <u>television or radio broadcasting stations or radio reading</u> | 27128 |
| <u>services for the operation of the interconnection;</u> | 27129 |
| <u>(4) Enter into agreements with noncommercial educational</u> | 27130 |
| <u>television or radio broadcasting stations or radio reading</u> | 27131 |
| <u>services for the production and use of educational television,</u> | 27132 |
| <u>radio, or radio reading service programs to be transmitted by the</u> | 27133 |
| <u>educational telecommunications network;</u> | 27134 |
| <u>(5) Act as consultant with educational television and</u> | 27135 |
| <u>educational radio stations and radio reading services toward</u> | 27136 |
| <u>coordination within the state of the distribution of federal funds</u> | 27137 |
| <u>that may become available for equipment for educational</u> | 27138 |
| <u>broadcasting or radio reading services;</u> | 27139 |
| <u>(6) Make payments to noncommercial Ohio educational</u> | 27140 |
| <u>television or radio broadcasting stations or radio reading</u> | 27141 |
| <u>services to sustain the operation of such stations or services;</u> | 27142 |
| <u>(7) Execute contracts and other agreements necessary and</u> | 27143 |
| <u>desirable to carry out the purposes of this section.</u> | 27144 |
| <u>(B) Sections 9.331 to 9.335 and Chapters 123., 124., 125.,</u> | 27145 |
| <u>and 153. of the Revised Code do not apply to contracts, programs,</u> | 27146 |
| <u>projects, or activities of the chancellor carried out under this</u> | 27147 |
| <u>section.</u> | 27148 |
| <u>(C) All employees of the former eTech Ohio commission who</u> | 27149 |
| <u>transferred to the office of the chancellor, as a result of the</u> | 27150 |
| <u>transfer to the chancellor of the state's educational</u> | 27151 |
| <u>telecommunications activities upon the effective date of this</u> | 27152 |
| <u>section, and who when employed by that commission or a predecessor</u> | 27153 |
| <u>agency were included in a bargaining unit established under</u> | 27154 |
| <u>Chapter 4117. of the Revised Code, shall continue to be included</u> | 27155 |
| <u>in that bargaining unit, are public employees as defined in</u> | 27156 |

section 4117.01 of the Revised Code, and may collectively bargain 27157
with the chancellor in accordance with that chapter. Otherwise, 27158
any employee hired by the chancellor on or after the effective 27159
date of this section, either to fill vacancies or to fill new 27160
positions related to the chancellor's duties under this section, 27161
shall be exempt from Chapter 4117. of the Revised Code and shall 27162
not be public employees as defined in section 4117.01 of the 27163
Revised Code. 27164

Sec. ~~3353.05~~ 3333.91. Any taxing authority as defined in 27165
section 5705.01 of the Revised Code located in a county may pay to 27166
any noncommercial educational television or radio broadcasting 27167
station or radio reading service located in the county or serving 27168
any part of the county an amount not to exceed five cents annually 27169
on each one thousand dollars of the total value of all property 27170
within the county as listed and assessed for taxation at the close 27171
of the fiscal year immediately preceding the year in which the 27172
payment is made. 27173

Sec. ~~3353.06~~ 3333.92. (A) The affiliates services fund is 27174
hereby created in the state treasury. The ~~eTech Ohio commission~~ 27175
chancellor of the Ohio board of regents shall deposit any money it 27176
receives for services provided to affiliates to the credit of the 27177
fund, including: 27178

(1) Reimbursements for services provided to stations; 27179

(2) Charges levied for maintenance of telecommunications, 27180
broadcasting, or transmission equipment; 27181

(3) Contract or grant payments from affiliates. 27182

(B) The ~~commission~~ chancellor shall use money credited to the 27183
affiliates services fund for any commission operating purposes, 27184
including: 27185

(1) The purchase, repair, or maintenance of 27186

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| telecommunications, broadcasting, or transmission equipment; | 27187 |
| (2) The purchase or lease of educational programming; | 27188 |
| (3) The purchase of tape and maintenance of a media library; | 27189 |
| (4) Professional development programs and services; | 27190 |
| (5) Administrative expenses. | 27191 |

Sec. ~~3353.07~~ 3333.93. (A) There is hereby created the Ohio 27192
government telecommunications service. The Ohio government 27193
telecommunications service shall provide the state government and 27194
affiliated organizations with multimedia support including audio, 27195
visual, and internet services, multimedia streaming, and hosting 27196
multimedia programs. 27197

Services relating to the official activities of the general 27198
assembly and the executive offices provided by the Ohio government 27199
telecommunications service shall be funded through grants to a 27200
public television broadcasting station that will manage the staff 27201
and provide the services of the Ohio government telecommunications 27202
service. The Ohio educational television stations shall select a 27203
member station to manage the Ohio government telecommunications 27204
service. The Ohio government telecommunications service shall 27205
receive grants from, or contract with, any of the three branches 27206
of Ohio government, and their affiliates, to provide additional 27207
services. Services provided by the Ohio government 27208
telecommunications service shall not be used for political 27209
purposes included in campaign materials, or otherwise used to 27210
influence an election, legislation, issue, judicial decision, or 27211
other policy of state government. 27212

(B)(1) There is hereby created the legislative programming 27213
committee of the Ohio government telecommunications service that 27214
shall consist of the president of the senate, speaker of the house 27215
of representatives, minority leader of the senate, and minority 27216

leader of the house of representatives, or their designees, and 27217
the clerks of the senate and house of representatives as 27218
nonvoting, ex officio members. By a vote of a majority of its 27219
members, the program committee may add additional members to the 27220
committee. 27221

(2) The legislative programming committee shall adopt rules 27222
that govern the operation of the Ohio government 27223
telecommunications service relating to the general assembly and 27224
any affiliated organizations. 27225

Sec. ~~3353.11~~ 3333.94. There is hereby created in the state 27226
treasury the governmental telecommunications operating fund. The 27227
fund shall consist of money received from contract services of the 27228
Ohio government telecommunications service and shall be used for 27229
operations or equipment breakdowns related to the service. Only 27230
the Ohio government telecommunications service may authorize the 27231
spending of money in the fund. All investment earnings of the fund 27232
shall be credited to the fund. Once the fund has a balance of 27233
zero, the fund shall cease to exist. 27234

Sec. 3345.12. (A) As used in this section and sections 27235
3345.07 and 3345.11 of the Revised Code, in other sections of the 27236
Revised Code that make reference to this section unless the 27237
context does not permit, and in related bond proceedings unless 27238
otherwise expressly provided: 27239

(1) "State university or college" means each of the state 27240
universities identified in section 3345.011 of the Revised Code 27241
and the northeast Ohio medical university, and includes its board 27242
of trustees. 27243

(2) "Institution of higher education" or "institution" means 27244
a state university or college, or a community college district, 27245
technical college district, university branch district, or state 27246

community college, and includes the applicable board of trustees 27247
or, in the case of a university branch district, any other 27248
managing authority. 27249

(3) "Housing and dining facilities" means buildings, 27250
structures, and other improvements, and equipment, real estate, 27251
and interests in real estate therefor, to be used for or in 27252
connection with dormitories or other living quarters and 27253
accommodations, or related dining halls or other food service and 27254
preparation facilities, for students, members of the faculty, 27255
officers, or employees of the institution of higher education, and 27256
their spouses and families. 27257

(4) "Auxiliary facilities" means buildings, structures, and 27258
other improvements, and equipment, real estate, and interests in 27259
real estate therefor, to be used for or in connection with student 27260
activity or student service facilities, housing and dining 27261
facilities, dining halls, and other food service and preparation 27262
facilities, vehicular parking facilities, bookstores, athletic and 27263
recreational facilities, faculty centers, auditoriums, assembly 27264
and exhibition halls, hospitals, infirmaries and other medical and 27265
health facilities, research, and continuing education facilities. 27266

(5) "Education facilities" means buildings, structures, and 27267
other improvements, and equipment, real estate, and interests in 27268
real estate therefor, to be used for or in connection with, 27269
classrooms or other instructional facilities, libraries, 27270
administrative and office facilities, and other facilities, other 27271
than auxiliary facilities, to be used directly or indirectly for 27272
or in connection with the conduct of the institution of higher 27273
education. 27274

(6) "Facilities" means housing and dining facilities, 27275
auxiliary facilities, or education facilities, and includes any 27276
one, part of, or any combination of such facilities, and further 27277
includes site improvements, utilities, machinery, furnishings, and 27278

any separate or connected buildings, structures, improvements, 27279
sites, open space and green space areas, utilities or equipment to 27280
be used in, or in connection with the operation or maintenance of, 27281
or supplementing or otherwise related to the services or 27282
facilities to be provided by, such facilities. 27283

(7) "Obligations" means bonds or notes or other evidences of 27284
obligation, including interest coupons pertaining thereto, 27285
authorized to be issued under this section or section 3345.07, 27286
3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised 27287
Code. 27288

(8) "Bond service charges" means principal, including any 27289
mandatory sinking fund or redemption requirements for the 27290
retirement of obligations or assurances, interest, or interest 27291
equivalent and other accreted amounts, and any call premium 27292
required to be paid on obligations or assurances. 27293

(9) "Bond proceedings" means the resolutions, trust 27294
agreement, indenture, and other agreements and credit enhancement 27295
facilities, and amendments and supplements to the foregoing, or 27296
any one or more or combination thereof, authorizing, awarding, or 27297
providing for the terms and conditions applicable to, or providing 27298
for the security or liquidity of, obligations or assurances, and 27299
the provisions contained in those obligations or assurances. 27300

(10) "Costs of facilities" means the costs of acquiring, 27301
constructing, reconstructing, rehabilitating, remodeling, 27302
renovating, enlarging, improving, equipping, or furnishing 27303
facilities, and the financing thereof, including the cost of 27304
clearance and preparation of the site and of any land to be used 27305
in connection with facilities, the cost of any indemnity and 27306
surety bonds and premiums on insurance, all related direct 27307
administrative expenses and allocable portions of direct costs of 27308
the institution of higher education or state agency, cost of 27309
engineering, architectural services, design, plans, specifications 27310

and surveys, estimates of cost, legal fees, fees and expenses of 27311
trustees, depositories, bond registrars, and paying agents for the 27312
obligations, cost of issuance of the obligations and financing 27313
costs and fees and expenses of financial advisers and consultants 27314
in connection therewith, interest on the obligations from the date 27315
thereof to the time when interest is to be covered by available 27316
receipts or other sources other than proceeds of the obligations, 27317
amounts necessary to establish reserves as required by the bond 27318
proceedings, costs of audits, the reimbursements of all moneys 27319
advanced or applied by or borrowed from the institution or others, 27320
from whatever source provided, including any temporary advances 27321
from state appropriations, for the payment of any item or items of 27322
cost of facilities, and all other expenses necessary or incident 27323
to planning or determining feasibility or practicability with 27324
respect to facilities, and such other expenses as may be necessary 27325
or incident to the acquisition, construction, reconstruction, 27326
rehabilitation, remodeling, renovation, enlargement, improvement, 27327
equipment, and furnishing of facilities, the financing thereof and 27328
the placing of them in use and operation, including any one, part 27329
of, or combination of such classes of costs and expenses. 27330

(11) "Available receipts" means all moneys received by the 27331
institution of higher education, including income, revenues, and 27332
receipts from the operation, ownership, or control of facilities 27333
or entrepreneurial projects, grants, gifts, donations, and pledges 27334
and receipts therefrom, receipts from fees and charges, and the 27335
proceeds of the sale of obligations or assurances, including 27336
proceeds of obligations or assurances issued to refund obligations 27337
or assurances previously issued, but excluding any special fee, 27338
and receipts therefrom, charged pursuant to division (D) of 27339
section 154.21 of the Revised Code. 27340

(12) "Credit enhancement facilities" has the meaning given in 27341
division (H) of section 133.01 of the Revised Code. 27342

(13) "Financing costs" has the meaning given in division (K) 27343
of section 133.01 of the Revised Code. 27344

(14) "Interest" or "interest equivalent" has the meaning 27345
given in division (R) of section 133.01 of the Revised Code. 27346

(15) "Assurances" means bonds, notes, or other evidence of 27347
indebtedness, including interest coupons pertaining thereto, 27348
authorized to be issued under section 3345.36 of the Revised Code. 27349

(16) "Entrepreneurial project" has the same meaning as in 27350
section 3345.36 of the Revised Code. 27351

(17) "Costs of entrepreneurial projects" means any costs 27352
related to the establishment or development of entrepreneurial 27353
projects pursuant to a resolution adopted under section 3345.36 of 27354
the Revised Code. 27355

(B) Obligations issued under section 3345.07 or 3345.11 of 27356
the Revised Code by a state university or college shall be 27357
authorized by resolution of its board of trustees. Obligations 27358
issued by any other institution of higher education shall be 27359
authorized by resolution of its board of trustees, or managing 27360
directors in the case of certain university branch districts, as 27361
applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code 27362
apply to obligations and assurances. Obligations and assurances 27363
may be issued to pay costs of facilities or entrepreneurial 27364
projects even if the institution anticipates the possibility of a 27365
future state appropriation to pay all or a portion of such costs. 27366

(C) Obligations and assurances shall be secured by a pledge 27367
of and lien on all or such part of the available receipts of the 27368
institution of higher education as it provides for in the bond 27369
proceedings, excluding moneys raised by taxation and state 27370
appropriations except as permitted by section ~~3333.90~~ 3333.59 of 27371
the Revised Code. Such pledge and lien may be made prior to all 27372
other expenses, claims, or payments, excepting any pledge of such 27373

available receipts previously made to the contrary and except as 27374
provided by any existing restrictions on the use thereof, or such 27375
pledge and lien may be made subordinate to such other expenses, 27376
claims, or payments, as provided in the bond proceedings. 27377
Obligations or assurances may be additionally secured by covenants 27378
of the institution to make, fix, adjust, collect, and apply such 27379
charges, rates, fees, rentals, and other items of available 27380
receipts as will produce pledged available receipts sufficient to 27381
meet bond service charges, reserve, and other requirements 27382
provided for in the bond proceedings. Notwithstanding this and any 27383
other sections of the Revised Code, the holders or owners of the 27384
obligations or assurances shall not be given the right and shall 27385
have no right to have excises or taxes levied by the general 27386
assembly for the payment of bond service charges thereon, and each 27387
such obligation or assurance shall bear on its face a statement to 27388
that effect and to the effect that the right to such payment is 27389
limited to the available receipts and special funds pledged to 27390
such purpose under the bond proceedings. 27391

All pledged available receipts and funds and the proceeds of 27392
obligations or assurances are trust funds and, subject to the 27393
provisions of this section and the applicable bond proceedings, 27394
shall be held, deposited, invested, reinvested, disbursed, 27395
applied, and used to such extent, in such manner, at such times, 27396
and for such purposes, as are provided in the bond proceedings. 27397

(D) The bond proceedings for obligations or assurances shall 27398
provide for the purpose thereof and the principal amount or 27399
maximum principal amount, and provide for or authorize the manner 27400
of determining the principal maturity or maturities, the sale 27401
price including any permitted discount, the interest rate or 27402
rates, which may be a variable rate or rates, or the maximum 27403
interest rate, the date of the obligations or assurances and the 27404
date or dates of payment of interest thereon, their denominations, 27405

the manner of sale thereof, and the establishment within or 27406
without the state of a place or places of payment of bond service 27407
charges. The bond proceedings also shall provide for a pledge of 27408
and lien on available receipts of the institution of higher 27409
education as provided in division (C) of this section, and a 27410
pledge of and lien on such fund or funds provided in the bond 27411
proceedings arising from available receipts, which pledges and 27412
liens may provide for parity with obligations or assurances 27413
theretofore or thereafter issued by the institution. The available 27414
receipts so pledged and thereafter received by the institution and 27415
the funds so pledged are immediately subject to the lien of such 27416
pledge without any physical delivery thereof or further act, and 27417
the lien of any such pledge is valid and binding against all 27418
parties having claims of any kind against the institution, 27419
irrespective of whether such parties have notice thereof, and 27420
shall create a perfected security interest for all purposes of 27421
Chapter 1309. of the Revised Code, without the necessity for 27422
separation or delivery of funds or for the filing or recording of 27423
the bond proceedings by which such pledge is created or any 27424
certificate, statement, or other document with respect thereto; 27425
and the pledge of such available receipts and funds shall be 27426
effective and the money therefrom and thereof may be applied to 27427
the purposes for which pledged without necessity for any act of 27428
appropriation. 27429

(E) The bond proceedings may contain additional provisions 27430
customary or appropriate to the financing or to the obligations or 27431
assurances or to particular obligations and assurances, including: 27432

(1) The acquisition, construction, reconstruction, equipment, 27433
furnishing, improvement, operation, alteration, enlargement, 27434
maintenance, insurance, and repair of facilities or 27435
entrepreneurial projects, and the duties of the institution of 27436
higher education with reference thereto; 27437

(2) The terms of the obligations or assurances, including 27438
provisions for their redemption prior to maturity at the option of 27439
the institution of higher education at such price or prices and 27440
under such terms and conditions as are provided in the bond 27441
proceedings; 27442

(3) Limitations on the purposes to which the proceeds of the 27443
obligations or assurances may be applied; 27444

(4) The rates or rentals or other charges for the use of or 27445
right to use the facilities or entrepreneurial projects financed 27446
by the obligations or assurances, or other properties the revenues 27447
or receipts from which are pledged to the obligations or 27448
assurances, and rules for assuring any applicable use and 27449
occupancy thereof, including limitations upon the right to modify 27450
such rates, rentals, other charges, or regulations; 27451

(5) The use and expenditure of the pledged available receipts 27452
in such manner and to such extent as shall be determined, which 27453
may include provision for the payment of the expenses of 27454
operation, maintenance, and repair of facilities or 27455
entrepreneurial projects so that such expenses, or part thereof, 27456
shall be paid or provided as a charge prior or subsequent to the 27457
payment of bond service charges and any other payments required to 27458
be made by the bond proceedings; 27459

(6) Limitations on the issuance of additional obligations or 27460
assurances; 27461

(7) The terms of any trust agreement or indenture securing 27462
the obligations or assurances or under which the same may be 27463
issued; 27464

(8) The deposit, investment, and application of funds, and 27465
the safeguarding of funds on hand or on deposit without regard to 27466
Chapter 131. or 135. of the Revised Code, and any bank or trust 27467
company or other financial institution that acts as depository of 27468

any moneys under the bond proceedings shall furnish such 27469
indemnifying bonds or pledge such securities as required by the 27470
bond proceedings or otherwise by the institution of higher 27471
education; 27472

(9) The binding effect of any or every provision of the bond 27473
proceedings upon such officer, board, commission, authority, 27474
agency, department, or other person or body as may from time to 27475
time have the authority under law to take such actions as may be 27476
necessary to perform all or any part of the duty required by such 27477
provision; 27478

(10) Any provision that may be made in a trust agreement or 27479
indenture; 27480

(11) Any other or additional agreements with respect to the 27481
facilities of the institution of higher education or its 27482
entrepreneurial projects, their operation, the available receipts 27483
and funds pledged, and insurance of facilities or entrepreneurial 27484
projects and of the institution, its officers and employees. 27485

(F) Such obligations or assurances may have the seal of the 27486
institution of higher education or a facsimile thereof affixed 27487
thereto or printed thereon and shall be executed by such officers 27488
as are designated in the bond proceedings, which execution may be 27489
by facsimile signatures. Any obligations or assurances may be 27490
executed by an officer who, on the date of execution, is the 27491
proper officer although on the date of such obligations or 27492
assurances such person was not the proper officer. In case any 27493
officer whose signature or a facsimile of whose signature appears 27494
on any such obligation or assurance ceases to be such officer 27495
before delivery thereof, such signature or facsimile is 27496
nevertheless valid and sufficient for all purposes as if the 27497
person had remained such officer until such delivery; and in case 27498
the seal of the institution has been changed after a facsimile of 27499
the seal has been imprinted on such obligations or assurances, 27500

such facsimile seal continues to be sufficient as to such 27501
obligations or assurances and obligations or assurances issued in 27502
substitution or exchange therefor. 27503

(G) All such obligations or assurances are negotiable 27504
instruments and securities under Chapter 1308. of the Revised 27505
Code, subject to the provisions of the bond proceedings as to 27506
registration. The obligations or assurances may be issued in 27507
coupon or in registered form, or both. Provision may be made for 27508
the registration of any obligations or assurances with coupons 27509
attached thereto as to principal alone or as to both principal and 27510
interest, their exchange for obligations or assurances so 27511
registered, and for the conversion or reconversion into 27512
obligations or assurances with coupons attached thereto of any 27513
obligations or assurances registered as to both principal and 27514
interest, and for reasonable charges for such registration, 27515
exchange, conversion, and reconversion. 27516

(H) Pending preparation of definitive obligations or 27517
assurances, the institution of higher education may issue interim 27518
receipts or certificates which shall be exchanged for such 27519
definitive obligations or assurances. 27520

(I) Such obligations or assurances may be secured 27521
additionally by a trust agreement or indenture between the 27522
institution of higher education and a corporate trustee, which may 27523
be any trust company or bank having the powers of a trust company 27524
within or without this state but authorized to exercise trust 27525
powers within this state. Any such agreement or indenture may 27526
contain the resolution authorizing the issuance of the obligations 27527
or assurances, any provisions that may be contained in the bond 27528
proceedings as authorized by this section, and other provisions 27529
which are customary or appropriate in an agreement or indenture of 27530
such type, including: 27531

(1) Maintenance of each pledge, trust agreement, and 27532

indenture, or other instrument comprising part of the bond 27533
proceedings until the institution of higher education has fully 27534
paid the bond service charges on the obligations or assurances 27535
secured thereby, or provision therefor has been made; 27536

(2) In the event of default in any payments required to be 27537
made by the bond proceedings, or any other agreement of the 27538
institution of higher education made as a part of the contract 27539
under which the obligations or assurances were issued, enforcement 27540
of such payments or agreement by mandamus, the appointment of a 27541
receiver, suit in equity, action at law, or any combination of the 27542
foregoing; 27543

(3) The rights and remedies of the holders of obligations or 27544
assurances and of the trustee, and provisions for protecting and 27545
enforcing them, including limitations on rights of individual 27546
holders of obligations or assurances; 27547

(4) The replacement of any obligations or assurances that 27548
become mutilated or are destroyed, lost, or stolen; 27549

(5) Such other provisions as the trustee and the institution 27550
of higher education agree upon, including limitations, conditions, 27551
or qualifications relating to any of the foregoing. 27552

(J) Each duty of the institution of higher education and its 27553
officers or employees, undertaken pursuant to the bond proceedings 27554
or any related agreement or lease made under authority of law, is 27555
hereby established as a duty of such institution, and of each such 27556
officer or employee having authority to perform such duty, 27557
specially enjoined by law resulting from an office, trust, or 27558
station within the meaning of section 2731.01 of the Revised Code. 27559
The persons who are at the time the members of the board of 27560
trustees or the managing directors of the institution or its 27561
officers or employees are not liable in their personal capacities 27562
on such obligations or assurances, or lease, or other agreement of 27563

the institution. 27564

(K) The authority to issue obligations or assurances includes 27565
authority to: 27566

(1) Issue obligations or assurances in the form of bond 27567
anticipation notes and to renew them from time to time by the 27568
issuance of new notes. Such notes are payable solely from the 27569
available receipts and funds that may be pledged to the payment of 27570
such bonds, or from the proceeds of such bonds or renewal notes, 27571
or both, as the institution of higher education provides in its 27572
resolution authorizing such notes. Such notes may be additionally 27573
secured by covenants of the institution to the effect that it will 27574
do such or all things necessary for the issuance of such bonds or 27575
renewal notes in appropriate amount, and either exchange such 27576
bonds or renewal notes therefor or apply the proceeds thereof to 27577
the extent necessary, to make full payment of the bond service 27578
charges on such notes at the time or times contemplated, as 27579
provided in such resolution. Subject to the provisions of this 27580
division, all references to obligations or assurances in this 27581
section apply to such anticipation notes. 27582

(2) Issue obligations or assurances to refund, including 27583
funding and retirement of, obligations or assurances previously 27584
issued to pay costs of facilities or entrepreneurial projects. 27585
Such obligations or assurances may be issued in amounts sufficient 27586
for payment of the principal amount of the obligations or 27587
assurances to be so refunded, any redemption premiums thereon, 27588
principal maturities of any obligations or assurances maturing 27589
prior to the redemption of any other obligations or assurances on 27590
a parity therewith to be so refunded, interest accrued or to 27591
accrue to the maturity date or dates of redemption of such 27592
obligations or assurances, and any expenses incurred or to be 27593
incurred in connection with such refunding or the issuance of the 27594
obligations or assurances. 27595

(L) Obligations and assurances are lawful investments for 27596
banks, societies for savings, savings and loan associations, 27597
deposit guarantee associations, trust companies, trustees, 27598
fiduciaries, insurance companies, including domestic for life and 27599
domestic not for life, trustees or other officers having charge of 27600
sinking and bond retirement or other special funds of political 27601
subdivisions and taxing districts of this state, the commissioners 27602
of the sinking fund, the administrator of workers' compensation in 27603
accordance with the investment policy approved by the bureau of 27604
workers' compensation board of directors pursuant to section 27605
4121.12 of the Revised Code, the state teachers retirement system, 27606
the public employees retirement system, the school employees 27607
retirement system, and the Ohio police and fire pension fund, 27608
notwithstanding any other provisions of the Revised Code or rules 27609
adopted pursuant thereto by any state agency with respect to 27610
investments by them, and are also acceptable as security for the 27611
deposit of public moneys. 27612

(M) All facilities or entrepreneurial projects purchased, 27613
acquired, constructed, or owned by an institution of higher 27614
education, or financed in whole or in part by obligations or 27615
assurances issued by an institution, and used for the purposes of 27616
the institution or other publicly owned and controlled college or 27617
university, is public property used exclusively for a public 27618
purpose, and such property and the income therefrom is exempt from 27619
all taxation and assessment within this state, including ad 27620
valorem and excise taxes. The obligations or assurances, the 27621
transfer thereof, and the income therefrom, including any profit 27622
made on the sale thereof, are at all times free from taxation 27623
within the state. The transfer of tangible personal property by 27624
lease under authority of this section or section 3345.07, 3345.11, 27625
3345.36, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised 27626
Code is not a sale as used in Chapter 5739. of the Revised Code. 27627

(N) The authority granted by this section is cumulative with 27628
the authority granted to institutions of higher education under 27629
Chapter 154. of the Revised Code, and nothing in this section 27630
impairs or limits the authority granted by Chapter 154. of the 27631
Revised Code. In any lease, agreement, or commitment made by an 27632
institution of higher education under Chapter 154. of the Revised 27633
Code, it may agree to restrict or subordinate any pledge it may 27634
thereafter make under authority of this section. 27635

(O) Title to lands acquired under this section and sections 27636
3345.07 and 3345.11 of the Revised Code by a state university or 27637
college shall be taken in the name of the state. 27638

(P) Except where costs of facilities or entrepreneurial 27639
projects are to be paid in whole or in part from funds 27640
appropriated by the general assembly, section 125.81 of the 27641
Revised Code and the requirement for certification with respect 27642
thereto under section 153.04 of the Revised Code do not apply to 27643
such facilities or entrepreneurial projects. 27644

(Q) A state university or college may sell or lease lands or 27645
interests in land owned by it or by the state for its use, or 27646
facilities authorized to be acquired or constructed by it under 27647
section 3345.07 or 3345.11 of the Revised Code, to permit the 27648
purchasers or lessees thereof to acquire, construct, equip, 27649
furnish, reconstruct, alter, enlarge, remodel, renovate, 27650
rehabilitate, improve, maintain, repair, or maintain and operate 27651
thereon and to provide by lease or otherwise to such institution, 27652
facilities authorized in section 3345.07 or 3345.11 of the Revised 27653
Code or entrepreneurial projects authorized under section 3345.36 27654
of the Revised Code. Such land or interests therein shall be sold 27655
for such appraised value, or leased, and on such terms as the 27656
board of trustees determines. All deeds or other instruments 27657
relating to such sales or leases shall be executed by such officer 27658
of the state university or college as the board of trustees 27659

designates. The state university or college shall hold, invest, or 27660
use the proceeds of such sales or leases for the same purposes for 27661
which proceeds of borrowings may be used under sections 3345.07 27662
and 3345.11 of the Revised Code or, if the proceeds relate to the 27663
sale or lease of entrepreneurial projects, for purposes of section 27664
3345.36 of the Revised Code. 27665

(R) An institution of higher education may pledge available 27666
receipts, to the extent permitted by division (C) of this section 27667
with respect to obligations, to secure the payments to be made by 27668
it under any lease, lease with option to purchase, or 27669
lease-purchase agreement authorized under this section or section 27670
3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, or 27671
3358.10 of the Revised Code. 27672

Sec. 3345.16. The board of trustees of a state college or 27673
university may receive, and hold in trust, for the use and benefit 27674
of the college or university any grant or devise of land, and 27675
donation or bequest of money or other personal property, to be 27676
applied to the general or special use of the college or 27677
university, including use for student loan and scholarship 27678
purposes, unless otherwise directed in the donation or bequest. 27679

The board of trustees of a state college or university may 27680
utilize trust funds to invest in property, real and personal, as a 27681
portion of the holdings in the endowment portfolio under the trust 27682
powers imparted to the board of trustees. Such property, real and 27683
personal, acquired for investment purposes shall be managed by the 27684
board of trustees in the same manner as are other investments in 27685
the college's or university's endowment portfolio. The board of 27686
trustees may lease, lease back, or otherwise contract for the use 27687
of such property in such manner as to provide earning power for 27688
the college or university investment portfolio. Sections 123.01, 27689
~~123.04~~ 123.02, ~~123.15~~ 123.10, and ~~123.47~~ 123.13 of the Revised 27690

Code do not apply to properties, real and personal, held under 27691
this section as earning-power properties in the college or 27692
university endowment portfolio. 27693

Notwithstanding any provision of the Revised Code to the 27694
contrary, the title in properties, real and personal, purchased by 27695
a board of trustees as an investment and held in the college's or 27696
university's endowment portfolio shall not be vested in the state, 27697
but shall be held in trust by the board. 27698

Sec. 3345.28. The board of trustees of any state university, 27699
medical university, technical college, state community college, 27700
community college, or the board of trustees or managing authority 27701
of any university branch may establish and administer a faculty 27702
improvement program, under which any full-time faculty member with 27703
at least seven academic years of teaching service at the college, 27704
university, or branch may be granted professional leave for a 27705
period not to exceed one academic year to engage in further 27706
education, research, or any other purpose approved by the board. A 27707
board of trustees or managing authority that establishes such a 27708
program shall, by rule, adopt a definition of "academic years of 27709
teaching service" and of "full-time faculty member." 27710

No such board or authority shall pay any faculty member for 27711
or during a period of professional leave any salary exceeding the 27712
amount that would have been paid to such faculty member for 27713
performing the faculty member's regular duties during the period 27714
of the leave. No faculty member shall, by virtue of being on 27715
professional leave, suffer a reduction or termination of the 27716
faculty member's regular employee retirement or insurance benefits 27717
or of any other benefit or privilege being received as a faculty 27718
member at the college, university, or branch where the faculty 27719
member is employed. Whenever such a benefit would be reduced 27720
because of a reduction in the faculty member's salary during the 27721

period of professional leave, the faculty member shall be given a 27722
chance to have the benefit increased to its normal level, in 27723
accordance with rules adopted by the board of trustees or the 27724
managing authority. A faculty member who has been granted 27725
professional leave shall complete another seven years of service 27726
at the college, university, or branch at which the faculty member 27727
is employed before becoming eligible for another grant of 27728
professional leave at that college, university, or branch. 27729
Professional leave taken as part of a faculty improvement program 27730
established under this section shall not be deemed to be in lieu 27731
of released time or assigned duty in connection with a specific 27732
research, scholarly, or creative program. 27733

Boards of trustees and managing authorities may accept moneys 27734
from any person, political subdivision, or the federal government 27735
to support a faculty improvement program, and may establish such 27736
additional rules as are necessary to establish and administer it. 27737

Each grant of professional leave shall be in accordance with 27738
a professional improvement policy for professional leaves that has 27739
been approved by the board of trustees or the managing authority. 27740
No professional leave shall be granted that requires a 27741
compensating addition to the permanent faculty or staff of the 27742
college, university, or branch. No professional leave shall be 27743
approved unless a specific plan for the professional improvement 27744
of the faculty member while on leave has been submitted to and 27745
accepted by the president of the university, college, or branch. 27746
At the completion of the leave, the faculty member shall submit to 27747
the president a report detailing the attainments of the faculty 27748
member under this professional improvement plan. 27749

~~Not later than the thirtieth day of June of each year, the 27750
chancellor of the board of regents shall report to the 27751
chairpersons of the education committees of the house of 27752
representatives and the senate on the status of implementation of 27753~~

~~faculty improvement programs. The report shall include, but need 27754
not be limited to, the following: the number of professional leave 27755
grants made by each institution; the purpose of each professional 27756
leave; and a statement of the cost to the institution of each 27757
professional leave, to the extent that such cost exceeds the 27758
salary of the faculty member on professional leave. 27759~~

Sec. 3345.50. Notwithstanding anything to the contrary in 27760
sections 123.01 and ~~123.15~~ 123.10 of the Revised Code, a state 27761
university, a state community college, or the northeast Ohio 27762
medical university not certified pursuant to section ~~123.17~~ 123.24 27763
of the Revised Code may administer any capital facilities project 27764
for the construction, reconstruction, improvement, renovation, 27765
enlargement, or alteration of a public improvement under its 27766
jurisdiction for which the total amount of funds expected to be 27767
appropriated by the general assembly does not exceed four million 27768
dollars without the supervision, control, or approval of the 27769
~~department of administrative services~~ Ohio facilities construction
commission as specified in those sections, if both of the 27770
following occur: 27771

(A) Within sixty days after the effective date of the section 27773
of an act in which the general assembly initially makes an 27774
appropriation for the project, the board of trustees of the 27775
institution notifies the chancellor of the Ohio board of regents 27776
in writing of its intent to administer the capital facilities 27777
project; 27778

(B) The board of trustees complies with the guidelines 27779
established pursuant to section 153.16 of the Revised Code and all 27780
laws that govern the selection of consultants, preparation and 27781
approval of contract documents, receipt of bids, and award of 27782
contracts with respect to the project. 27783

The chancellor shall adopt rules in accordance with Chapter 27784

119. of the Revised Code that establish criteria for the 27785
administration by any such institution of higher education of a 27786
capital facilities project for which the total amount of funds 27787
expected to be appropriated by the general assembly exceeds four 27788
million dollars. The criteria, to be developed with the ~~department~~ 27789
~~of administrative services~~ Ohio facilities construction commission 27790
and higher education representatives selected by the chancellor, 27791
shall include such matters as the adequacy of the staffing levels 27792
and expertise needed for the institution to administer the 27793
project, past performance of the institution in administering such 27794
projects, and the amount of institutional or other nonstate money 27795
to be used in financing the project. The chancellor and the 27796
~~department of administrative services~~ Ohio facilities construction 27797
commission shall approve the request of any such institution of 27798
higher education that seeks to administer any such capital 27799
facilities project and meets the criteria set forth in the rules 27800
and in the requirements of division (B) of this section. 27801

Sec. 3345.51. (A) Notwithstanding anything to the contrary in 27802
sections ~~123.01~~ 123.20 and ~~123.15~~ 123.21 of the Revised Code, a 27803
state university, the northeast Ohio medical university, or a 27804
state community college may administer any capital facilities 27805
project for the construction, reconstruction, improvement, 27806
renovation, enlargement, or alteration of a public improvement 27807
under its jurisdiction for which funds are appropriated by the 27808
general assembly without the supervision, control, or approval of 27809
the ~~department of administrative services~~ Ohio facilities 27810
construction commission as specified in those sections, if all of 27811
the following occur: 27812

(1) The institution is certified by the ~~state architect~~ 27813
commission under section ~~123.17~~ 123.24 of the Revised Code; 27814

(2) Within sixty days after the effective date of the section 27815

of an act in which the general assembly initially makes an 27816
appropriation for the project, the board of trustees of the 27817
institution notifies the chancellor of the Ohio board of regents 27818
in writing of its request to administer the capital facilities 27819
project and the chancellor approves that request pursuant to 27820
division (B) of this section; 27821

(3) The board of trustees passes a resolution stating its 27822
intent to comply with section 153.13 of the Revised Code and the 27823
guidelines established pursuant to section 153.16 of the Revised 27824
Code and all laws that govern the selection of consultants, 27825
preparation and approval of contract documents, receipt of bids, 27826
and award of contracts with respect to the project. 27827

(B) The chancellor shall adopt rules in accordance with 27828
Chapter 119. of the Revised Code that establish criteria for the 27829
administration by any such institution of higher education of a 27830
capital facilities project for which the general assembly 27831
appropriates funds. The criteria, to be developed with the 27832
~~department of administrative services~~ commission and higher 27833
education representatives selected by the chancellor, shall 27834
include such matters as the adequacy of the staffing levels and 27835
expertise needed for the institution to administer the project, 27836
past performance of the institution in administering such 27837
projects, and the amount of institutional or other nonstate money 27838
to be used in financing the project. The chancellor shall approve 27839
the request of any such institution of higher education that seeks 27840
to administer any such capital facilities project and meets the 27841
criteria set forth in the rules and the requirements of division 27842
(A) of this section. 27843

(C) Any institution that administers a capital facilities 27844
project under this section shall conduct biennial audits for the 27845
duration of the project to ensure that the institution is 27846
complying with Chapters 9., 123., and 153. of the Revised Code and 27847

that the institution is using its certification issued under 27848
section ~~123.17~~ 123.24 of the Revised Code appropriately. The 27849
chancellor, in consultation with higher education representatives 27850
selected by the chancellor, shall adopt rules in accordance with 27851
Chapter 119. of the Revised Code that establish criteria for the 27852
conduct of the audits. The criteria shall include documentation 27853
necessary to determine compliance with Chapters 9., 123., and 153. 27854
of the Revised Code and a method to determine whether an 27855
institution is using its certification issued under section ~~123.17~~ 27856
123.24 of the Revised Code appropriately. 27857

(D) The chancellor, in consultation with higher education 27858
representatives selected by the chancellor, shall adopt rules in 27859
accordance with Chapter 119. of the Revised Code establishing 27860
criteria for monitoring capital facilities projects administered 27861
by institutions under this section. The criteria shall include the 27862
following: 27863

(1) Conditions under which the chancellor may revoke the 27864
authority of an institution to administer a capital facilities 27865
project under this section, including the failure of an 27866
institution to maintain a sufficient number of employees who have 27867
successfully completed the certification program under section 27868
~~123.17~~ 123.24 of the Revised Code; 27869

(2) A process for institutions to remedy any problems found 27870
by an audit conducted pursuant to division (C) of this section, 27871
including the improper use of state funds or violations of Chapter 27872
9., 123., or 153. of the Revised Code. 27873

(E) If the chancellor revokes an institution's authority to 27874
administer a capital facilities project, the ~~department of~~ 27875
~~administrative services~~ commission shall administer the capital 27876
facilities project. The chancellor also may require an 27877
institution, for which the chancellor revoked authority to 27878
administer a capital facilities project, to acquire a new local 27879

administration competency certification pursuant to section ~~123.17~~ 27880
123.24 of the Revised Code. 27881

Sec. 3345.54. (A) As used in this section: 27882

(1) "Auxiliary facilities" has the same meaning as in section 27883
3345.12 of the Revised Code. 27884

(2) "Conduit entity" means an organization described in 27885
section 501(c)(3) of the Internal Revenue Code qualified as a 27886
public charity under section 509(a)(2) or 509(a)(3) of the 27887
Internal Revenue Code, or any other appropriate legal entity 27888
selected by the state institution, whose corporate purpose allows 27889
it to perform the functions and obligations of a conduit entity 27890
pursuant to the terms of a financing agreement. 27891

(3) "Conveyed property" means auxiliary facilities conveyed 27892
by a state institution to a conduit entity pursuant to a financing 27893
agreement. 27894

(4) "Financing agreement" means a contract described in 27895
division (C) of this section. 27896

(5) "Independent funding source" means a private entity that 27897
enters into a financing agreement with a conduit entity and a 27898
state institution. 27899

(6) "State institution" means a state institution of higher 27900
education as defined in section 3345.011 of the Revised Code. 27901

(B) The board of trustees of a state institution, with the 27902
approval of the chancellor of the Ohio board of regents and the 27903
controlling board, may enter into a financing agreement with a 27904
conduit entity and an independent funding source selected either 27905
through a competitive selection process or by direct negotiations, 27906
and may convey to the conduit entity title to any auxiliary 27907
facilities owned by the state institution pursuant to the terms of 27908
a financing agreement. 27909

(C) A financing agreement under this section is a written 27910
contract entered into among a state institution, a conduit entity, 27911
and an independent funding source that provides for: 27912

(1) The conveyance of auxiliary facilities owned by a state 27913
institution to the conduit entity for consideration deemed 27914
adequate by the state institution; 27915

(2) The lease of the conveyed property by the conduit entity 27916
to the independent funding source and leaseback of the conveyed 27917
property to the conduit entity for a term not to exceed 27918
ninety-nine years; 27919

(3) Such other terms and conditions that may be negotiated 27920
and agreed upon by the parties, including, but not limited to, 27921
terms regarding: 27922

(a) Payment to the state institution by the conduit entity of 27923
revenues received by it from the operations of the conveyed 27924
property in excess of the payments it is required to make to the 27925
independent funding source under the lease-leaseback arrangement 27926
described in division (C)(2) of this section; 27927

(b) Pledge, assignment, or creation of a lien in favor of the 27928
independent funding source by the conduit entity of any revenues 27929
derived from the conveyed property; 27930

(c) Reverter or conveyance of title to the conveyed property 27931
to the state institution when the conveyed property is no longer 27932
subject to a lease with the independent funding source. 27933

(4) Terms and conditions required by the chancellor or the 27934
controlling board as a condition of approval of the financing 27935
agreement. 27936

(D) The state institution and the conduit entity may enter 27937
into such other management agreements or other contracts regarding 27938
the conveyed property the parties deem appropriate, including 27939

agreements pursuant to which the state institution may maintain or 27940
administer the conveyed property and collect and disburse revenues 27941
from the conveyed property on behalf of the conduit entity. 27942

(E) The parties may modify or extend the term of the 27943
financing agreement with the approval of the chancellor and the 27944
controlling board. 27945

(F) The conveyed property shall retain its exemption from 27946
property taxes and assessments as though title to the conveyed 27947
property were held by the state institution during any part of a 27948
tax year that title is held by the state institution or the 27949
conduit entity and, if held by the conduit entity, remains subject 27950
to the lease-leaseback arrangement described in division (C)(2) of 27951
this section. However, as a condition of the continued exemption 27952
of the conveyed property during the term of the lease-leaseback 27953
arrangement the conduit entity shall apply for and maintain the 27954
exemption as provided by law. 27955

(G) Nothing in this section is intended to abrogate, amend, 27956
limit, or replace any existing authority state institutions may 27957
have with respect to the conveyance, lease, lease-leaseback, 27958
finance, or acquisition of auxiliary facilities including, but not 27959
limited to, authority granted under sections 3345.07, 3345.11, and 27960
3345.12 of the Revised Code. 27961

Sec. 3345.69. (A) As used in this section: 27962

(1) "State institution of higher education" has the same 27963
meaning as in section 3345.011 of the Revised Code. 27964

(2) "Board of trustees of a state institution of higher 27965
education" has the same meaning as in section 3345.61 of the 27966
Revised Code. 27967

(B) The chairperson of the interuniversity council of Ohio 27968
and the secretary of the Ohio association of community colleges 27969

shall assist in coordinating the organization and operation of a 27970
committee to carry out this section. The committee shall be 27971
comprised of the presidents of the state institutions of higher 27972
education or their designees. The committee, in consultation with 27973
the ~~office of energy services of the department of administrative~~ 27974
~~services~~ Ohio facilities construction commission, shall develop 27975
guidelines for the board of trustees of each state institution of 27976
higher education to use in ensuring energy efficiency and 27977
conservation in on- and off-campus buildings. ~~Initial guidelines~~ 27978
~~shall be adopted not later than ninety days after the effective~~ 27979
~~date of this section.~~ At a minimum, guidelines under this section 27980
shall do all of the following: 27981

(1) Include a goal to reduce on- and off-campus building 27982
energy consumption by at least twenty per cent by 2014, using 27983
calendar year 2004 as the benchmark year, while recognizing the 27984
diverse nature and different energy demands and uses of such 27985
buildings and measures already taken to increase building energy 27986
efficiency and conservation; 27987

(2) Prescribe minimum energy efficiency and conservation 27988
standards for any new, on- or off-campus capital improvement 27989
project with a construction cost of one hundred thousand dollars 27990
or more, which standards shall be based on general building type 27991
and cost-effectiveness; 27992

(3) Prescribe minimum energy efficiency and conservation 27993
standards for the leasing of an off-campus space of at least 27994
twenty-thousand square feet; 27995

(4) Incorporate best practices into energy efficiency and 27996
conservation standards and plans; 27997

(5) Provide that each board develop its own fifteen-year plan 27998
for phasing in energy efficiency and conservation projects; 27999

(6) Provide that project impact assessments include the 28000

fiscal effects of energy efficiency and conservation 28001
recommendations and plans; 28002

(7) Establish mechanisms for each board to report 28003
periodically to the committee on its progress relative to the 28004
guidelines. 28005

(C) The board of trustees of a state institution of higher 28006
education shall adopt rules under section 111.15 of the Revised 28007
Code to carry out the guidelines established pursuant to division 28008
(B) of this section, including in the execution of the board's 28009
authority under sections 3345.62 to 3345.66 of the Revised Code. 28010

Sec. 3345.692. (A) Not later than September 15, 2010, and the 28011
fifteenth day of September each year thereafter, a state 28012
institution of higher education shall prepare and submit to the 28013
chancellor of the board of regents a report that describes the 28014
number and types of biobased products purchased under section 28015
125.092 of the Revised Code and the amount of money spent by the 28016
state institution of higher education for those biobased products. 28017

~~(B) Not later than September 30, 2010, and the thirtieth day 28018
of September each year thereafter, the chancellor of the board of 28019
regents shall prepare and submit to the governor, the president of 28020
the senate, and the speaker of the house of representatives a 28021
report that describes the number and types of biobased products 28022
purchased under section 125.092 of the Revised Code and the amount 28023
of money spent by state institutions of higher education for those 28024
biobased products as that information is provided to the 28025
chancellor under division (A) of this section. 28026~~

~~(C) As used in this section, "state institution of higher 28027
education" has the same meaning as in section 3345.011 of the 28028
Revised Code. 28029~~

Sec. 3347.03. Each commission created by section 3347.01 of 28030

the Revised Code may acquire property of any kind by purchase, 28031
gift, or devise and hold and use any such property, or may use 28032
state lands at their respective universities upon consent of the 28033
respective boards of trustees thereof, for the erection, 28034
remodeling, or improving and equipping of buildings for suitable 28035
housing, dormitory, dining hall, and recreational accommodations, 28036
referred to as "buildings" in sections 3347.03 to 3347.08 of the 28037
Revised Code, for students, instructors, members of the faculty, 28038
the administration and maintenance staff of the universities with 28039
which each commission is identified, and their families. The 28040
construction, remodeling, or improving of any such buildings shall 28041
be in accordance with plans and specifications approved by the 28042
commission and with sections 153.01 and 153.04 to 153.20 of the 28043
Revised Code, except that the commission may act in all instances 28044
where the ~~department of administrative services~~ Ohio facilities 28045
construction commission is mentioned in such sections. 28046

Sec. 3383.02. (A) There is hereby created the Ohio cultural 28047
facilities commission. The commission shall engage in and provide 28048
for the development, performance, and presentation or making 28049
available of culture and professional sports and athletics to the 28050
public in this state, and the provision of training or education 28051
in culture, by the exercise of its powers under this chapter, 28052
including the provision, operation, management, and cooperative 28053
use of Ohio cultural facilities and Ohio sports facilities. The 28054
commission is a body corporate and politic, an agency of state 28055
government and an instrumentality of the state, performing 28056
essential governmental functions of this state. The carrying out 28057
of the purposes and the exercise by the commission of its powers 28058
conferred by this chapter are essential public functions and 28059
public purposes of the state and of state government. The 28060
commission may, in its own name, sue and be sued, enter into 28061
contracts, and perform all the powers and duties given to it by 28062

this chapter; however, it does not have and shall not exercise the power of eminent domain.

(B) The commission shall consist of twelve members, nine of whom shall be voting members and three of whom shall be nonvoting members. The nine voting members shall be appointed by the governor, with the advice and consent of the senate, from different geographical regions of the state. In addition, one of the voting members shall represent the ~~state architect~~ Ohio facilities construction commission. Not more than five of the members appointed by the governor shall be affiliated with the same political party. The nonvoting members shall be the staff director of the Ohio arts council, a member of the senate appointed by the president of the senate, and a member of the house of representatives appointed by the speaker of the house.

(C) Of the five initial appointments made by the governor, one shall be for a term expiring December 31, 1989, two shall be for terms expiring December 31, 1990, and two shall be for terms expiring December 31, 1991. Of the initial appointments of the sixth and seventh voting members made by the governor, one shall be for a term expiring December 31, 2003, and one shall be for a term expiring December 31, 2004. Of the initial appointments of the eighth and ninth voting members made by the governor, one shall be for a term expiring December 31, 2007, and one shall be for a term expiring December 31, 2008. These voting members shall be appointed within sixty days after ~~the effective date of this amendment~~ September 29, 2005. Thereafter, each such term shall be for three years, commencing on the first day of January and ending on the thirty-first day of December. Each appointment by the president of the senate and by the speaker of the house of representatives shall be for the balance of the then legislative biennium. 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. Any member appointed to fill a vacancy 28095
occurring prior to the expiration of the term for which the 28096
member's predecessor was appointed shall hold office for the 28097
remainder of such term. Any member shall continue in office 28098
subsequent to the expiration date of the member's term until the 28099
member's successor takes office, or until a period of sixty days 28100
has elapsed, whichever occurs first. 28101

(D) Members of the commission shall serve without 28102
compensation. 28103

(E) Organizational meetings of the commission shall be held 28104
at the first meeting of each calendar year. At each organizational 28105
meeting, the commission shall elect from among its voting members 28106
a chairperson, a vice-chairperson, and a secretary-treasurer, who 28107
shall serve until the next annual meeting. The commission shall 28108
adopt rules pursuant to section 111.15 of the Revised Code for the 28109
conduct of its internal business and shall keep a journal of its 28110
proceedings. 28111

(F) Five voting members of the commission constitute a 28112
quorum, and the affirmative vote of five members is necessary for 28113
approval of any action taken by the commission. A vacancy in the 28114
membership of the commission does not impair a quorum from 28115
exercising all the rights and performing all the duties of the 28116
commission. Meetings of the commission may be held anywhere in the 28117
state, and shall be held in compliance with section 121.22 of the 28118
Revised Code. 28119

(G) All expenses incurred in carrying out this chapter are 28120
payable solely from money accrued under this chapter or 28121
appropriated for these purposes by the general assembly, and the 28122
commission shall incur no liability or obligation beyond such 28123
money. 28124

(H) The commission shall file an annual report of its 28125

activities and finances with the governor, director of budget and 28126
management, speaker of the house of representatives, president of 28127
the senate, and chairpersons of the house and senate finance 28128
committees. 28129

(I) There is hereby established in the state treasury the 28130
Ohio cultural facilities commission administration fund. All 28131
revenues of the commission shall be credited to that fund and to 28132
any accounts created in that fund with the commission's approval. 28133
All expenses of the commission, including reimbursement of, or 28134
payment to, any other fund or any governmental agency for advances 28135
made or services rendered to or on behalf of the commission, shall 28136
be paid from that fund as determined by or pursuant to directions 28137
of the commission. All investment earnings of that fund shall be 28138
credited to it and shall be allocated among any accounts created 28139
in the fund in the manner determined by the commission. 28140

(J) Title to all real property and lesser interests in real 28141
property acquired by the commission, including leasehold and other 28142
interests, pursuant to this chapter shall be taken in the name of 28143
the state and shall be held for the use and benefit of the 28144
commission. The commission shall not mortgage such real property 28145
and interests in real property. Title to other property and 28146
interests in it acquired by the commission pursuant to this 28147
chapter shall be taken in its name. 28148

Sec. 3383.07. (A) ~~The department of administrative services~~ 28149
Ohio facilities construction commission shall provide for the 28150
construction of a cultural project in conformity with Chapter 153. 28151
of the Revised Code, except as follows: 28152

(1) For a cultural project other than a state historical 28153
facility, construction services may be provided on behalf of the 28154
state by the Ohio cultural facilities commission, or by a 28155
governmental agency or a cultural organization that occupies, will 28156

occupy, or is responsible for the Ohio cultural facility, as 28157
determined by the Ohio cultural facilities commission. For a 28158
project receiving a state appropriation of fifty thousand dollars 28159
or less, the Ohio cultural facilities commission may delegate to 28160
its executive director the authority to approve the provision of 28161
construction services by such an agency or organization, but not 28162
the authority to disapprove that provision. Construction services 28163
to be provided by a governmental agency or a cultural organization 28164
shall be specified in an agreement between the Ohio cultural 28165
facilities commission and the governmental agency or cultural 28166
organization. The agreement, or any actions taken under it, are 28167
not subject to Chapter 123. or 153. of the Revised Code, except 28168
for sections 123.081 and 153.011 of the Revised Code, and shall be 28169
subject to Chapter 4115. of the Revised Code. 28170

(2) For a cultural project that is a state historical 28171
facility, construction services may be provided by the Ohio 28172
cultural facilities commission or by a cultural organization that 28173
occupies, will occupy, or is responsible for the facility, as 28174
determined by the Ohio cultural facilities commission. For a 28175
facility receiving a state appropriation of fifty thousand dollars 28176
or less, the Ohio cultural facilities commission may delegate to 28177
its executive director the authority to approve the provision of 28178
construction services by such an organization, but not the 28179
authority to disapprove that provision. The construction services 28180
to be provided by the cultural organization shall be specified in 28181
an agreement between the Ohio cultural facilities commission and 28182
the cultural organization. That agreement, and any actions taken 28183
under it, are not subject to Chapter 123., 153., or 4115. of the 28184
Revised Code. 28185

(B) For an Ohio sports facility that is financed in part by 28186
obligations issued pursuant to Chapter 154. of the Revised Code, 28187
construction services shall be provided on behalf of the state by 28188

or at the direction of the governmental agency or nonprofit corporation that will own or 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 construction services by or at the direction of the agency or corporation, but not the authority to disapprove that provision. Any construction services to be provided by a governmental agency or nonprofit corporation 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.

(C) General building services for an Ohio cultural facility shall be provided by the Ohio cultural facilities commission or by a cultural organization that occupies, will occupy, or is responsible for the facility, 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 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 28222
state-owned land. 28223

General building services for an Ohio sports facility shall 28224
be provided by or at the direction of the governmental agency or 28225
nonprofit corporation that will be responsible for the management 28226
of the facility, all as determined by the Ohio cultural facilities 28227
commission. For a facility receiving a state appropriation of 28228
fifty thousand dollars or less, the Ohio cultural facilities 28229
commission may delegate to its executive director the authority to 28230
approve the provision of general building services by or at the 28231
direction of the agency or corporation, but not the authority to 28232
disapprove that provision. Any general building services to be 28233
provided by a governmental agency or nonprofit corporation for an 28234
Ohio sports facility shall be specified in an agreement between 28235
the Ohio cultural facilities commission and the governmental 28236
agency or nonprofit corporation. That agreement, and any actions 28237
taken under it, are not subject to Chapter 123. or 153. of the 28238
Revised Code, except for sections 123.081 and 153.011 of the 28239
Revised Code, and shall be subject to Chapter 4115. of the Revised 28240
Code. 28241

(D) This division does not apply to a state historical 28242
facility. No state funds, including any state bond proceeds, shall 28243
be spent on the construction of any cultural project under this 28244
chapter unless, with respect to the cultural project and to the 28245
Ohio cultural facility related to the project, all of the 28246
following apply: 28247

(1) The Ohio cultural facilities commission has determined 28248
that there is a need for the cultural project and the Ohio 28249
cultural facility related to the project in the region of the 28250
state in which the Ohio cultural facility is located or for which 28251
the facility is proposed. For a project receiving a state 28252
appropriation of fifty thousand dollars or less, the Ohio cultural 28253

facilities commission may delegate to its executive director the 28254
authority to determine need but only in the affirmative. 28255

(2) The Ohio cultural facilities commission has determined 28256
that, as an indication of substantial regional support for the 28257
cultural project, the cultural organization has made provision 28258
satisfactory to the Ohio cultural facilities commission, in its 28259
sole discretion, for local contributions amounting to not less 28260
than fifty per cent of the total state funding for the cultural 28261
project. For a project receiving a state appropriation of fifty 28262
thousand dollars or less, the Ohio cultural facilities commission 28263
may delegate to its executive director the authority to determine 28264
the adequacy of the regional support but only in the affirmative. 28265

(3) The general assembly has specifically authorized the 28266
spending of money on, or made an appropriation for, the 28267
construction of the cultural project, or for rental payments 28268
relating to the financing of the construction of the cultural 28269
project. Authorization to spend money, or an appropriation, for 28270
planning the cultural project does not constitute authorization to 28271
spend money on, or an appropriation for, construction of the 28272
cultural project. 28273

(E) No state funds, including any state bond proceeds, shall 28274
be spent on the construction of any state historical facility 28275
under this chapter unless the general assembly has specifically 28276
authorized the spending of money on, or made an appropriation for, 28277
the construction of the state historical project related to the 28278
facility, or for rental payments relating to the financing of the 28279
construction of the state historical project. Authorization to 28280
spend money, or an appropriation, for planning the state 28281
historical project does not constitute authorization to spend 28282
money on, or an appropriation for, the construction of the state 28283
historical project. 28284

(F) State funds shall not be used to pay or reimburse more 28285

than fifteen per cent of the initial estimated construction cost 28286
of an Ohio sports facility, excluding any site acquisition cost, 28287
and no state funds, including any state bond proceeds, shall be 28288
spent on any Ohio sports facility under this chapter unless, with 28289
respect to that facility, all of the following apply: 28290

(1) The Ohio cultural facilities commission has determined 28291
that there is a need for the facility in the region of the state 28292
for which the facility is proposed to provide the function of an 28293
Ohio sports facility as provided for in this chapter. For a 28294
facility receiving a state appropriation of fifty thousand dollars 28295
or less, the Ohio cultural facilities commission may delegate to 28296
its executive director the authority to determine need but only in 28297
the affirmative. 28298

(2) As an indication of substantial local support for the 28299
facility, the Ohio cultural facilities commission has received a 28300
financial and development plan satisfactory to it, and provision 28301
has been made, by agreement or otherwise, satisfactory to the Ohio 28302
cultural facilities commission, for a contribution amounting to 28303
not less than eighty-five per cent of the total estimated 28304
construction cost of the facility, excluding any site acquisition 28305
cost, from sources other than the state. For a facility receiving 28306
a state appropriation of fifty thousand dollars or less, the Ohio 28307
cultural facilities commission may delegate to its executive 28308
director the authority to evaluate the financial and development 28309
plan and the contribution and to determine their adequacy but only 28310
in the affirmative. 28311

(3) The general assembly has specifically authorized the 28312
spending of money on, or made an appropriation for, the 28313
construction of the facility, or for rental payments relating to 28314
state financing of all or a portion of the costs of constructing 28315
the facility. Authorization to spend money, or an appropriation, 28316
for planning or determining the feasibility of or need for the 28317

facility does not constitute authorization to spend money on, or 28318
an appropriation for, costs of constructing the facility. 28319

(4) If state bond proceeds are being used for the Ohio sports 28320
facility, the state or a governmental agency owns or has 28321
sufficient property interests in the facility or in the site of 28322
the facility or in the portion or portions of the facility 28323
financed from proceeds of state bonds, which may include, but is 28324
not limited to, the right to use or to require the use of the 28325
facility for the presentation of sport and athletic events to the 28326
public at the facility. 28327

(G) In addition to the requirements of division (F) of this 28328
section, no state funds, including any state bond proceeds, shall 28329
be spent on any Ohio sports facility that is a motorsports 28330
complex, unless, with respect to that facility, both of the 28331
following apply: 28332

(1) Motorsports events shall be presented at the facility 28333
pursuant to a lease entered into with the owner of the facility. 28334
The term of the lease shall be for a period of not less than the 28335
greater of the useful life of the portion of the facility financed 28336
from proceeds of state bonds as determined using the guidelines 28337
for maximum maturities as provided under divisions (B) and (C) of 28338
section 133.20 of the Revised Code, or the period of time 28339
remaining to the date of payment or provision for payment of 28340
outstanding state bonds allocable to costs of the facility, all as 28341
determined by the director of budget and management and certified 28342
by the director to the Ohio cultural facilities commission and to 28343
the treasurer of state. 28344

(2) Any motorsports organization that commits to using the 28345
facility for an established period of time shall give the 28346
political subdivision in which the facility is located not less 28347
than six months' advance notice if the organization intends to 28348
cease utilizing the facility prior to the expiration of that 28349

established period. Such a motorsports organization shall be 28350
liable to the state for any state funds used on the construction 28351
costs of the facility. 28352

(H) In addition to the requirements of division (F) of this 28353
section, no state bond proceeds shall be spent on any Ohio sports 28354
facility that is a tennis facility, unless the owner or manager of 28355
the facility provides contractual commitments from a national or 28356
international professional tennis organization in a form 28357
acceptable to the cultural facilities commission that assures that 28358
one or more sanctioned professional tennis events will be 28359
presented at the facility during each year that the bonds remain 28360
outstanding. 28361

Sec. 3701.021. (A) The ~~public director of health council~~ 28362
shall adopt, in accordance with Chapter 119. of the Revised Code, 28363
such rules as are necessary to carry out sections 3701.021 to 28364
3701.0210 of the Revised Code, including, but not limited to, 28365
rules to establish the following: 28366

(1) Medical and financial eligibility requirements for the 28367
program for medically handicapped children; 28368

(2) Eligibility requirements for providers of services for 28369
medically handicapped children; 28370

(3) Procedures to be followed by the department of health in 28371
disqualifying providers for violating requirements adopted under 28372
division (A)(2) of this section; 28373

(4) Procedures to be used by the department regarding 28374
application for diagnostic services under division (B) of section 28375
3701.023 of the Revised Code and payment for those services under 28376
division (E) of that section; 28377

(5) Standards for the provision of service coordination by 28378
the department of health and city and general health districts; 28379

| | |
|--|---|
| (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; | 28380 28381 28382 28383 28384 |
| (7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis; | 28385 28386 28387 |
| (8) Criteria for payment of approved providers who provide services for medically handicapped children; | 28388 28389 |
| (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; | 28390 28391 28392 |
| (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; | 28393 28394 28395 |
| (11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code; | 28396 28397 28398 |
| (12) Eligibility requirements for the hemophilia program, including income and hardship requirements; | 28399 28400 |
| (13) If a manufacturer discount program is established under division (J)(1) of section 3701.023 of the Revised Code, procedures for administering the program, including criteria and other requirements for participation in the program by manufacturers of drugs and nutritional formulas. | 28401 28402 28403 28404 28405 |
| (B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to 3701.0210 of the Revised Code. | 28406 28407 28408 28409 |

Sec. 3701.023. (A) The department of health shall review 28410
applications for eligibility for the program for medically 28411
handicapped children that are submitted to the department by city 28412
and general health districts and physician providers approved in 28413
accordance with division (C) of this section. The department shall 28414
determine whether the applicants meet the medical and financial 28415
eligibility requirements established by the ~~public~~ director of 28416
health ~~council~~ pursuant to division (A)(1) of section 3701.021 of 28417
the Revised Code, and by the department in the manual of 28418
operational procedures and guidelines for the program for 28419
medically handicapped children developed pursuant to division (B) 28420
of that section. Referrals of potentially eligible children for 28421
the program may be submitted to the department on behalf of the 28422
child by parents, guardians, public health nurses, or any other 28423
interested person. The department of health may designate other 28424
agencies to refer applicants to the department of health. 28425

(B) In accordance with the procedures established in rules 28426
adopted under division (A)(4) of section 3701.021 of the Revised 28427
Code, the department of health shall authorize a provider or 28428
providers to provide to any Ohio resident under twenty-one years 28429
of age, without charge to the resident or the resident's family 28430
and without restriction as to the economic status of the resident 28431
or the resident's family, diagnostic services necessary to 28432
determine whether the resident has a medically handicapping or 28433
potentially medically handicapping condition. 28434

(C) The department of health shall review the applications of 28435
health professionals, hospitals, medical equipment suppliers, and 28436
other individuals, groups, or agencies that apply to become 28437
providers. The department shall enter into a written agreement 28438
with each applicant who is determined, pursuant to the 28439
requirements set forth in rules adopted under division (A)(2) of 28440
section 3701.021 of the Revised Code, to be eligible to be a 28441

provider in accordance with the provider agreement required by the 28442
medical assistance program established under section 5111.01 of 28443
the Revised Code. No provider shall charge a medically handicapped 28444
child or the child's parent or guardian for services authorized by 28445
the department under division (B) or (D) of this section. 28446

The department, in accordance with rules adopted under 28447
division (A)(3) of section 3701.021 of the Revised Code, may 28448
disqualify any provider from further participation in the program 28449
for violating any requirement set forth in rules adopted under 28450
division (A)(2) of that section. The disqualification shall not 28451
take effect until a written notice, specifying the requirement 28452
violated and describing the nature of the violation, has been 28453
delivered to the provider and the department has afforded the 28454
provider an opportunity to appeal the disqualification under 28455
division (H) of this section. 28456

(D) The department of health shall evaluate applications from 28457
city and general health districts and approved physician providers 28458
for authorization to provide treatment services, service 28459
coordination, and related goods to children determined to be 28460
eligible for the program for medically handicapped children 28461
pursuant to division (A) of this section. The department shall 28462
authorize necessary treatment services, service coordination, and 28463
related goods for each eligible child in accordance with an 28464
individual plan of treatment for the child. As an alternative, the 28465
department may authorize payment of health insurance premiums on 28466
behalf of eligible children when the department determines, in 28467
accordance with criteria set forth in rules adopted under division 28468
(A)(9) of section 3701.021 of the Revised Code, that payment of 28469
the premiums is cost-effective. 28470

(E) The department of health shall pay, from appropriations 28471
to the department, any necessary expenses, including but not 28472
limited to, expenses for diagnosis, treatment, service 28473

coordination, supportive services, transportation, and accessories 28474
and their upkeep, provided to medically handicapped children, 28475
provided that the provision of the goods or services is authorized 28476
by the department under division (B) or (D) of this section. Money 28477
appropriated to the department of health may also be expended for 28478
reasonable administrative costs incurred by the program. The 28479
department of health also may purchase liability insurance 28480
covering the provision of services under the program for medically 28481
handicapped children by physicians and other health care 28482
professionals. 28483

Payments made to providers by the department of health 28484
pursuant to this division for inpatient hospital care, outpatient 28485
care, and all other medical assistance furnished to eligible 28486
recipients shall be made in accordance with rules adopted by the 28487
~~public director of health council~~ pursuant to division (A) of 28488
section 3701.021 of the Revised Code. 28489

The departments of health and job and family services shall 28490
jointly implement procedures to ensure that duplicate payments are 28491
not made under the program for medically handicapped children and 28492
the medical assistance program established under section 5111.01 28493
of the Revised Code and to identify and recover duplicate 28494
payments. 28495

(F) At the time of applying for participation in the program 28496
for medically handicapped children, a medically handicapped child 28497
or the child's parent or guardian shall disclose the identity of 28498
any third party against whom the child or the child's parent or 28499
guardian has or may have a right of recovery for goods and 28500
services provided under division (B) or (D) of this section. The 28501
department of health shall require a medically handicapped child 28502
who receives services from the program or the child's parent or 28503
guardian to apply for all third-party benefits for which the child 28504
may be eligible and require the child, parent, or guardian to 28505

apply all third-party benefits received to the amount determined 28506
under division (E) of this section as the amount payable for goods 28507
and services authorized under division (B) or (D) of this section. 28508
The department is the payer of last resort and shall pay for 28509
authorized goods or services, up to the amount determined under 28510
division (E) of this section for the authorized goods or services, 28511
only to the extent that payment for the authorized goods or 28512
services is not made through third-party benefits. When a third 28513
party fails to act on an application or claim for benefits by a 28514
medically handicapped child or the child's parent or guardian, the 28515
department shall pay for the goods or services only after ninety 28516
days have elapsed since the date the child, parents, or guardians 28517
made an application or claim for all third-party benefits. 28518
Third-party benefits received shall be applied to the amount 28519
determined under division (E) of this section. Third-party 28520
payments for goods and services not authorized under division (B) 28521
or (D) of this section shall not be applied to payment amounts 28522
determined under division (E) of this section. Payment made by the 28523
department shall be considered payment in full of the amount 28524
determined under division (E) of this section. Medicaid payments 28525
for persons eligible for the medical assistance program 28526
established under section 5111.01 of the Revised Code shall be 28527
considered payment in full of the amount determined under division 28528
(E) of this section. 28529

(G) The department of health shall administer a program to 28530
provide services to Ohio residents who are twenty-one or more 28531
years of age who have cystic fibrosis and who meet the eligibility 28532
requirements established ~~by the~~ in rules ~~of~~ adopted by the ~~public~~ 28533
director of health council pursuant to division (A)(7) of section 28534
3701.021 of the Revised Code, subject to all provisions of this 28535
section, but not subject to section 3701.024 of the Revised Code. 28536

(H) The department of health shall provide for appeals, in 28537

accordance with rules adopted under section 3701.021 of the Revised Code, of denials of applications for the program for medically handicapped children under division (A) or (D) of this section, disqualification of providers, or amounts paid under division (E) of this section. Appeals under this division are not subject to Chapter 119. of the Revised Code.

The department may designate ombudspersons to assist medically handicapped children or their parents or guardians, upon the request of the children, parents, or guardians, in filing appeals under this division and to serve as children's, parents', or guardians' advocates in matters pertaining to the administration of the program for medically handicapped children and eligibility for program services. The ombudspersons shall receive no compensation but shall be reimbursed by the department, in accordance with rules of the office of budget and management, for their actual and necessary travel expenses incurred in the performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

(J)(1) The department of health may establish a manufacturer discount program under which a manufacturer of a drug or nutritional formula is permitted to enter into an agreement with the department to provide a discount on the price of the drug or nutritional formula distributed to medically handicapped children participating in the program for medically handicapped children. The program shall be administered in accordance with rules adopted under section 3701.021 of the Revised Code.

(2) If a manufacturer enters into an agreement with the

department as described in division (J)(1) of this section, the 28570
manufacturer and the department may negotiate the amount and terms 28571
of the discount. 28572

(3) In lieu of establishing a discount program as described 28573
in division (J)(1) of this section, the department and a 28574
manufacturer of a drug or nutritional formula may discuss a 28575
donation of drugs, nutritional formulas, or money by the 28576
manufacturer to the department. 28577

Sec. 3701.024. (A)(1) Under a procedure established in rules 28578
adopted under section 3701.021 of the Revised Code, the department 28579
of health shall determine the amount each county shall provide 28580
annually for the program for medically handicapped children, based 28581
on a proportion of the county's total general property tax 28582
duplicate, not to exceed one-tenth of a mill, and charge the 28583
county for any part of expenses incurred under the program for 28584
treatment services on behalf of medically handicapped children 28585
having legal settlement in the county that is not paid from 28586
federal funds or through the medical assistance program 28587
established under section 5111.01 of the Revised Code. The 28588
department shall not charge the county for expenses exceeding the 28589
difference between the amount determined under division (A)(1) of 28590
this section and any amounts retained under divisions (A)(2) and 28591
(3) of this section. 28592

All amounts collected by the department under division (A)(1) 28593
of this section shall be deposited into the state treasury to the 28594
credit of the medically handicapped children-county assessment 28595
fund, which is hereby created. The fund shall be used by the 28596
department to comply with sections 3701.021 to 3701.028 of the 28597
Revised Code. 28598

(2) The department, in accordance with rules adopted under 28599
section 3701.021 of the Revised Code, may allow each county to 28600

retain up to ten per cent of the amount determined under division 28601
(A)(1) of this section to provide funds to city or general health 28602
districts of the county with which the districts shall provide 28603
service coordination, public health nursing, or transportation 28604
services for medically handicapped children. 28605

(3) In addition to any amount retained under division (A)(2) 28606
of this section, the department, in accordance with rules adopted 28607
under section 3701.021 of the Revised Code, may allow counties 28608
that it determines have significant numbers of potentially 28609
eligible medically handicapped children to retain an amount equal 28610
to the difference between: 28611

(a) Twenty-five per cent of the amount determined under 28612
division (A)(1) of this section; 28613

(b) Any amount retained under division (A)(2) of this 28614
section. 28615

Counties shall use amounts retained under division (A)(3) of 28616
this section to provide funds to city or general health districts 28617
of the county with which the districts shall conduct outreach 28618
activities to increase participation in the program for medically 28619
handicapped children. 28620

(4) Prior to any increase in the millage charged to a county, 28621
the ~~public director of health council~~ shall hold a public hearing 28622
on the proposed increase and shall give notice of the hearing to 28623
each board of county commissioners that would be affected by the 28624
increase at least thirty days prior to the date set for the 28625
hearing. Any county commissioner may appear and give testimony at 28626
the hearing. Any increase in the millage any county is required to 28627
provide for the program for medically handicapped children shall 28628
be determined, and notice of the amount of the increase shall be 28629
provided to each affected board of county commissioners, no later 28630
than the first day of June of the fiscal year next preceding the 28631

fiscal year in which the increase will take effect. 28632

(B) Each board of county commissioners shall establish a 28633
medically handicapped children's fund and shall appropriate 28634
thereto an amount, determined in accordance with division (A)(1) 28635
of this section, for the county's share in providing medical, 28636
surgical, and other aid to medically handicapped children residing 28637
in such county and for the purposes specified in divisions (A)(2) 28638
and (3) of this section. Each county shall use money retained 28639
under divisions (A)(2) and (3) of this section only for the 28640
purposes specified in those divisions. 28641

Sec. 3701.025. There is hereby created the medically 28642
handicapped children's medical advisory council consisting of 28643
twenty-one members to be appointed by the director of health for 28644
terms set in accordance with rules adopted by the ~~public health~~ 28645
~~council~~ director under division (A)(11) of section 3701.021 of the 28646
Revised Code. The medically handicapped children's medical 28647
advisory council shall advise the director regarding the 28648
administration of the program for medically handicapped children, 28649
the suitable quality of medical practice for providers, and the 28650
requirements for medical eligibility for the program. 28651

All members of the council shall be licensed physicians, 28652
surgeons, dentists, and other professionals in the field of 28653
medicine, representative of the various disciplines involved in 28654
the treatment of children with medically handicapping conditions, 28655
and representative of the treatment facilities involved, such as 28656
hospitals, private and public health clinics, and private 28657
physicians' offices, and shall be eligible for the program. 28658

Members of the council shall receive no compensation, but 28659
shall receive their actual and necessary travel expenses incurred 28660
in the performance of their official duties in accordance with the 28661
rules of the office of budget and management. 28662

Sec. 3701.03. (A) The director of health shall perform duties 28663
that are incident to the director's position as chief executive 28664
officer of the department of health. The director shall administer 28665
the laws relating to health and sanitation and the rules of the 28666
department of health. The director may designate employees of the 28667
department and, during a public health emergency, other persons to 28668
administer the laws and rules on the director's behalf. 28669

(B) Nothing in this section authorizes any action that 28671
prevents the fulfillment of duties or impairs the exercise of 28672
authority established by law for any other person or entity. 28673

~~(C) The director shall prepare sanitary and public health 28674
rules for consideration by the public health council and submit to 28675
the council recommendations for new legislation. The director 28676
shall sit at meetings of the council but shall have no vote. 28677~~

Sec. 3701.05. The director of health shall keep ~~the public~~ 28678
~~health council,~~ health officials, and the general public fully 28679
informed in a printed annual report in regard to the work of the 28680
department of health and on the progress that is being made in 28681
studying the cause and prevention of disease and such kindred 28682
subjects as may contribute to the welfare of the people of the 28683
state. 28684

Sec. 3701.07. (A) The ~~public~~ director of health ~~council~~ shall 28685
adopt rules in accordance with Chapter 119. of the Revised Code 28686
defining and classifying hospitals and dispensaries and providing 28687
for the reporting of information by hospitals and dispensaries. 28688
Except as otherwise provided in the Revised Code, the rules 28689
providing for the reporting of information shall not require 28690
inclusion of any confidential patient data or any information 28691
concerning the financial condition, income, expenses, or net worth 28692

of the facilities other than that financial information already 28693
contained in those portions of the medicare or medicaid cost 28694
report that is necessary for the department of health to certify 28695
the per diem cost under section 3701.62 of the Revised Code. The 28696
rules may require the reporting of information in the following 28697
categories: 28698

(1) Information needed to identify and classify the 28699
institution; 28700

(2) Information on facilities and type and volume of services 28701
provided by the institution; 28702

(3) The number of beds listed by category of care provided; 28703

(4) The number of licensed or certified professional 28704
employees by classification; 28705

(5) The number of births that occurred at the institution the 28706
previous calendar year; 28707

(6) Any other information that the ~~council~~ director considers 28708
relevant to the safety of patients served by the institution. 28709

Every hospital and dispensary, public or private, annually 28710
shall register with and report to the department of health. 28711
Reports shall be submitted in the manner prescribed in rules 28712
adopted under this division. 28713

(B) Every governmental entity or private nonprofit 28714
corporation or association whose employees or representatives are 28715
defined as residents' rights advocates under divisions (E)(1) and 28716
(2) of section 3721.10 of the Revised Code shall register with the 28717
department of health on forms furnished by the director of health 28718
and shall provide such reasonable identifying information as the 28719
director may prescribe. 28720

The department shall compile a list of the governmental 28721
entities, corporations, or associations registering under this 28722

division and shall update the list annually. Copies of the list 28723
shall be made available to nursing home administrators as defined 28724
in division (C) of section 3721.10 of the Revised Code ~~and to~~ 28725
~~adult care facility managers as defined in section 5119.70 of the~~ 28726
~~Revised Code.~~ 28727

Sec. 3701.072. (A) As used in this chapter: 28728

(1) "Bioterrorism" has the same meaning as in section 28729
3701.232 of the Revised Code. 28730

(2) "Surveillance" in the public health service means the 28731
systematic collection, analysis, interpretation, and dissemination 28732
of health data on an ongoing basis, to gain knowledge of the 28733
pattern of disease occurrence and potential in a community in 28734
order to control and prevent disease in the community. 28735

(3) "Trauma center" has the same meaning as in section 28736
4765.01 of the Revised Code. 28737

(B) The ~~public~~ director of health ~~council~~ shall adopt rules 28738
in accordance with Chapter 119. of the Revised Code that require a 28739
trauma center to report information to the director of health 28740
describing the trauma center's preparedness and capacity to 28741
respond to disasters, mass casualties, and bioterrorism. The 28742
~~council's~~ director's rules may require the reporting of any 28743
information the ~~council~~ director considers necessary for an 28744
accurate description of a trauma center's preparedness and 28745
capacity to respond to disasters, mass casualties, and 28746
bioterrorism. Information reported pursuant to this division is 28747
not a public record under section 149.43 of the Revised Code. 28748

(C) Upon request, the department of health shall provide a 28749
summary report of the ~~public health council's~~ rules adopted 28750
pursuant to this section. 28751

(D) The director shall review all information received 28752

pursuant to this section. After reviewing the information, the 28753
director may conduct an evaluation of a trauma center's 28754
preparedness and capacity to respond to disasters, mass 28755
casualties, and bioterrorism. An evaluation conducted pursuant to 28756
this division is not a public record under section 149.43 of the 28757
Revised Code. 28758

Sec. 3701.11. The director of health ~~and the secretary of the~~ 28759
~~public health council~~ shall have power to administer oaths in all 28760
parts of the state so far as the exercise of such power is 28761
incidental to the performance of the duties of the director ~~or of~~ 28762
~~the council.~~ 28763

Sec. 3701.132. The department of health is hereby designated 28764
as the state agency to administer the "special supplemental 28765
nutrition program for women, infants, and children" established 28766
under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 28767
1786, as amended. The public director of health ~~council~~ may adopt 28768
rules pursuant to Chapter 119. of the Revised Code as necessary 28769
for administering the program. The rules may include civil money 28770
penalties for violations of the rules. 28771

In determining eligibility for services provided under the 28772
program, the department may use the application form established 28773
under section 5111.013 of the Revised Code for the healthy start 28774
program. The department may require applicants to furnish their 28775
social security numbers. 28776

If the department determines that a vendor has committed an 28777
act with respect to the program that federal statutes or 28778
regulations or state statutes or rules prohibit, the department 28779
shall take action against the vendor in the manner required by 7 28780
C.F.R. part 246, including imposition of a civil money penalty in 28781
accordance with 7 C.F.R. 246.12, or rules adopted under this 28782

section. 28783

Sec. 3701.146. (A) In taking actions regarding tuberculosis, 28784
the director of health has all of the following duties and powers: 28785

(1) The director shall maintain registries of hospitals, 28786
clinics, physicians, or other care providers to whom the director 28787
shall refer persons who make inquiries to the department of health 28788
regarding possible exposure to tuberculosis. 28789

(2) The director shall engage in tuberculosis surveillance 28790
activities, including the collection and analysis of 28791
epidemiological information relative to the frequency of 28792
tuberculosis infection, demographic and geographic distribution of 28793
tuberculosis cases, and trends pertaining to tuberculosis. 28794

(3) The director shall maintain a tuberculosis registry to 28795
record the incidence of tuberculosis in this state. 28796

(4) The director may appoint physicians to serve as 28797
tuberculosis consultants for geographic regions of the state 28798
specified by the director. Each tuberculosis consultant shall act 28799
in accordance with rules the director establishes and shall be 28800
responsible for advising and assisting physicians and other health 28801
care practitioners who participate in tuberculosis control 28802
activities and for reviewing medical records pertaining to the 28803
treatment provided to individuals with tuberculosis. 28804

(B)(1) The ~~public health council~~ director shall adopt rules 28805
establishing standards for the following: 28806

(a) Performing tuberculosis screenings; 28807

(b) Performing examinations of individuals who have been 28808
exposed to tuberculosis and individuals who are suspected of 28809
having tuberculosis; 28810

(c) Providing treatment to individuals with tuberculosis; 28811

(d) Preventing individuals with communicable tuberculosis 28812
from infecting other individuals; 28813

(e) Performing laboratory tests for tuberculosis and studies 28814
of the resistance of tuberculosis to one or more drugs; 28815

(f) Selecting laboratories that provide in a timely fashion 28816
the results of a laboratory test for tuberculosis. The standards 28817
shall include a requirement that first consideration be given to 28818
laboratories located in this state. 28819

(2) Rules adopted pursuant to this section shall be adopted 28820
in accordance with Chapter 119. of the Revised Code and may be 28821
consistent with any recommendations or guidelines on tuberculosis 28822
issued by the United States centers for disease control and 28823
prevention or by the American thoracic society. The rules shall 28824
apply to county or district tuberculosis control units, physicians 28825
who examine and treat individuals for tuberculosis, and 28826
laboratories that perform tests for tuberculosis. 28827

Sec. 3701.161. The director of health shall make necessary 28828
arrangements for the production and distribution of diphtheria 28829
antitoxin. Such antitoxin shall in all respects be equal in purity 28830
and potency to the standard of requirements of the United States 28831
public health service for antitoxin for interstate commerce. 28832
Diphtheria antitoxin shall be distributed in accordance with rules 28833
the ~~public health council~~ director adopts pursuant to Chapter 119. 28834
of the Revised Code. 28835

Sec. 3701.20. (A) In accordance with rules adopted ~~by the~~ 28836
~~public health council~~, under division (C) of this section, the 28837
director of health shall establish, promote, and maintain the Ohio 28838
poison control network; designate regions within the network; and 28839
designate poison prevention and treatment centers within each 28840
region. The purposes of the network are to: 28841

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| (1) Reduce the mortality resulting from and the expenditures incurred because of accidental, homicidal, suicidal, occupational, or environmental poisoning; | 28842 28843 28844 |
| (2) Educate the public and health care professionals concerning the prevention and treatment of exposure to poison; | 28845 28846 |
| (3) Organize poison prevention and treatment activities on a regional basis to avoid duplication and waste. | 28847 28848 |
| (B) To be eligible for designation as a poison prevention and treatment center and to retain the designation, a center must maintain compliance with the standards established by the public health council <u>director</u> pursuant to division (C) of this section. A poison prevention and treatment center may be operated by an individual, hospital, institution of higher education, political subdivision, association, corporation, or public or private agency. | 28849 28850 28851 28852 28853 28854 28855 28856 |
| (C) In accordance with Chapter 119. of the Revised Code, the public health council <u>director</u> shall adopt rules that do the following: | 28857 28858 28859 |
| (1) Establish guidelines, based on population density and other relevant factors, and procedures to be followed by the director of health in designating poison control network regions and centers; | 28860 28861 28862 28863 |
| (2) Establish standards for the operation of poison prevention and treatment centers; | 28864 28865 |
| (3) Establish standards and procedures to be followed by the director of health in making grants to poison prevention and treatment centers; | 28866 28867 28868 |
| (4) Establish procedures, other than those prescribed by Chapter 119. of the Revised Code, for reconsideration, at the request of the entity affected, of the denial or revocation of a | 28869 28870 28871 |

designation as a poison prevention and treatment center. 28872

(D) In accordance with rules adopted ~~by the public health~~ 28873
~~council~~ under division (C) of this section, the director of health 28874
shall make grants to poison prevention and treatment centers. A 28875
center is not eligible for a grant unless, prior to receiving the 28876
grant, the entity that operates the center agrees in writing that 28877
the level of the total funds, labor, and services devoted by the 28878
entity to the center during the period of the grant will 28879
approximate, as determined by the director of health, the level of 28880
the total funds, labor, and services devoted to the center by that 28881
entity in the fiscal year preceding the fiscal year in which the 28882
grant begins. 28883

(E) Each poison prevention and treatment center shall do all 28884
of the following: 28885

(1) Maintain and staff a twenty-four-hour per day, toll-free, 28886
telephone line to respond to inquiries and provide information 28887
about poison prevention and treatment and available services; 28888

(2) Provide specialized treatment, consultation, information, 28889
and educational programs to health care professionals and the 28890
public; 28891

(3) Compile information on the types and frequency of 28892
treatment it provides. 28893

A center may provide the services described in divisions 28894
(E)(1) and (2) of this section either directly or through contract 28895
with other facilities, as the director of health considers 28896
appropriate. Each center shall take measures to ensure the 28897
confidentiality of information about individuals to whom treatment 28898
or services are provided. 28899

(F) The director of health may revoke the designation of a 28900
poison treatment and control center, or deny an application for 28901
designation, if the center or applicant fails to meet or maintain 28902

the standards established ~~by rule of the public health council~~ in 28903
rules adopted under division (C) of this section. The entity 28904
seeking the designation may have the revocation or denial 28905
reconsidered in accordance with rules adopted ~~by the public health~~ 28906
~~council~~ under division (C) of this section. 28907

(G)(1) A poison prevention and treatment center, its 28908
officers, employees, volunteers, or other persons associated with 28909
the center, and a person, organization, or institution that 28910
advises or assists a poison prevention and treatment center are 28911
not liable in damages in a tort action for harm that allegedly 28912
arises from advice or assistance rendered to any person unless the 28913
advice or assistance is given in a manner that constitutes willful 28914
or wanton misconduct or intentionally tortious conduct. 28915

(2) This section does not create, and shall not be construed 28916
as creating, a new cause of action or substantive legal right 28917
against a poison prevention and treatment center, its officers, 28918
employees, volunteers, or other persons associated with the 28919
center, or a person, organization, or institution that advises or 28920
assists a poison prevention and treatment center. 28921

(3) This section does not affect, and shall not be construed 28922
as affecting, any immunities from civil liability or defenses 28923
conferred by any other section of the Revised Code or available at 28924
common law, to which a poison prevention and treatment center, its 28925
officers, employees, volunteers, or other persons associated with 28926
the center or a person, organization, or institution that advises 28927
or assists a poison prevention and treatment center may be 28928
entitled under circumstances not specified by this section. 28929

(H) The director shall annually report to the general 28930
assembly findings and recommendations concerning the 28931
effectiveness, impact, and benefits of the poison prevention and 28932
treatment centers. 28933

Sec. 3701.201. (A) As used in this section, "bioterrorism" 28934
has the same meaning as in section 3701.232 of the Revised Code. 28935

(B) The ~~public director of health council~~ shall adopt rules 28936
in accordance with Chapter 119. of the Revised Code under which a 28937
poison prevention and treatment center or other health-related 28938
entity is required to report events that may be caused by 28939
bioterrorism, epidemic or pandemic disease, or established or 28940
novel infectious agents or biological or chemical toxins posing a 28941
risk of human fatality or disability. Rules adopted under this 28942
section may require a report of any of the following: 28943

(1) An unexpected pattern or increase in the number of 28944
telephone inquiries or requests to provide information about 28945
poison prevention and treatment and available services; 28946

(2) An unexpected pattern or increase in the number of 28947
requests to provide specialized treatment, consultation, 28948
information, and educational programs to health care professionals 28949
and the public; 28950

(3) An unexpected pattern or increase in the number of 28951
requests for information on established or novel infectious agents 28952
or biological or chemical toxins posing a risk of human fatality 28953
or disability that is relatively uncommon and may have been caused 28954
by bioterrorism. 28955

(C) Each poison prevention and treatment center and other 28956
health-related entity shall comply with any reporting requirement 28957
established in rules adopted under division (B) of this section. 28958

(D) Information reported under this section that is protected 28959
health information pursuant to section 3701.17 of the Revised Code 28960
shall be released only in accordance with that section. 28961
Information that does not identify an individual may be released 28962
in summary, statistical, or aggregate form. 28963

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| Sec. 3701.21. (A) As used in this section: | 28964 |
| (1) "Amblyopia" means reduced vision in an eye that has not received adequate use during early childhood. | 28965 28966 |
| (2) "501(c) organization" means an organization exempt from federal income taxation pursuant to 26 U.S.C.A. 501(a) and (c). | 28967 28968 |
| (B) There is hereby created in the state treasury the save our sight fund. The fund shall consist of voluntary contributions deposited as provided in section 4503.104 of the Revised Code. All investment earnings from the fund shall be credited to the fund. | 28969 28970 28971 28972 |
| (C) The director of health shall use the money in the save our sight fund as follows: | 28973 28974 |
| (1) To provide support to 501(c) organizations that offer vision services in all counties of the state and have demonstrated experience in the delivery of vision services to do one or more of the following: | 28975 28976 28977 28978 |
| (a) Implement a voluntary children's vision screening training and certification program for volunteers, child care providers, nurses, teachers, health care professionals practicing in primary care settings, and others serving children; | 28979 28980 28981 28982 |
| (b) Provide materials for the program implemented under division (C)(1)(a) of this section; | 28983 28984 |
| (c) Develop and implement a registry and targeted voluntary case management system to determine whether children with amblyopia are receiving professional eye care and to provide their parents with information and support regarding their child's vision care; | 28985 28986 28987 28988 28989 |
| (d) Establish a matching grant program for the purchase and distribution of protective eyewear to children; | 28990 28991 |
| (e) Provide vision health and safety programs and materials | 28992 |

for classrooms. 28993

(2) For the purpose of section 4503.104 of the Revised Code, 28994
to develop and distribute informational materials on the 28995
importance of eye care and safety to the registrar of motor 28996
vehicles and each deputy registrar; 28997

(3) To pay costs incurred by the director in administering 28998
the fund; 28999

(4) To reimburse the bureau of motor vehicles for the 29000
administrative costs incurred in performing its duties under 29001
section 4503.104 of the Revised Code. 29002

(D) A 501(c) organization seeking funding from the save our 29003
sight fund for any of the projects specified in division (C) of 29004
this section shall submit a request for the funding to the 29005
director in accordance with rules adopted under division (E) of 29006
this section. The director shall determine the appropriateness of 29007
and approve or disapprove projects for funding and approve or 29008
disapprove the disbursement of money from the save our sight fund. 29009

(E) The ~~public health council~~ director shall adopt rules in 29010
accordance with Chapter 119. of the Revised Code to implement this 29011
section. The rules shall include the parameters of the projects 29012
specified in division (C)(1) of this section that may be funded 29013
with money in the save our sight fund and procedures for 501(c) 29014
organizations to request funding from the fund. 29015

Sec. 3701.221. (A) The director of health shall have charge 29016
of the public health laboratory authorized by section 3701.22 of 29017
the Revised Code. The director may employ an assistant for the 29018
laboratory who shall be a person skilled in chemistry and 29019
bacteriology, and receive compensation as the director determines. 29020
All expenses of the laboratory shall be paid from appropriations 29021
made for the department of health. 29022

(B) The ~~public health council~~ director, in accordance with 29023
Chapter 119. of the Revised Code, shall adopt, and may amend or 29024
rescind, rules establishing reasonable fees for services the 29025
laboratory performs. The ~~council~~ director need not prescribe fees 29026
where the ~~council~~ director believes that charging fees would 29027
significantly and adversely affect the public health. All fees 29028
collected for services the laboratory performs shall be deposited 29029
into the state treasury to the credit of the "laboratory handling 29030
fee fund," which is hereby created for the purpose of defraying 29031
expenses of operating the laboratory. 29032

Sec. 3701.23. (A) As used in this section, "health care 29033
provider" means any person or government entity that provides 29034
health care services to individuals. "Health care provider" 29035
includes, but is not limited to, hospitals, medical clinics and 29036
offices, special care facilities, medical laboratories, 29037
physicians, pharmacists, dentists, physician assistants, 29038
registered and licensed practical nurses, laboratory technicians, 29039
emergency medical service organization personnel, and ambulance 29040
service organization personnel. 29041

(B) Boards of health, health authorities or officials, health 29042
care providers in localities in which there are no health 29043
authorities or officials, and coroners or medical examiners shall 29044
report promptly to the department of health the existence of any 29045
of the following: 29046

(1) Asiatic cholera; 29047

(2) Yellow fever; 29048

(3) Diphtheria; 29049

(4) Typhus or typhoid fever; 29050

(5) As specified by the ~~public~~ director of health ~~council~~, 29051
other contagious or infectious diseases, illnesses, health 29052

conditions, or unusual infectious agents or biological toxins 29053
posing a risk of human fatality or disability. 29054

(C) No person shall fail to comply with the reporting 29055
requirements established under division (B) of this section. 29056

(D) The reports required by this section shall be submitted 29057
on forms, as required by statute or rule, and in the manner the 29058
director of health prescribes. 29059

(E) Information reported under this section that is protected 29060
health information pursuant to section 3701.17 of the Revised Code 29061
shall be released only in accordance with that section. 29062
Information that does not identify an individual may be released 29063
in summary, statistical, or aggregate form. 29064

Sec. 3701.232. (A) As used in this section: 29065

(1) "Bioterrorism" means the intentional use of any 29066
microorganism, virus, infectious substance, or biological product 29067
that may be engineered as a result of biotechnology, or any 29068
naturally occurring or bioengineered component of a microorganism, 29069
virus, infectious substance, or biological product, to cause 29070
death, disease, or other biological malfunction in a human, 29071
animal, plant, or other living organism as a means of influencing 29072
the conduct of government or intimidating or coercing a 29073
population. 29074

(2) "Pharmacist" means an individual licensed under Chapter 29075
4729. of the Revised Code to engage in the practice of pharmacy as 29076
a pharmacist. 29077

(3) "Pharmacy" and "prescription" have the same meanings as 29078
in section 4729.01 of the Revised Code. 29079

(B) The ~~public~~ director of health ~~council~~ shall adopt rules 29080
in accordance with Chapter 119. of the Revised Code under which a 29081
pharmacy or pharmacist is required to report significant changes 29082

in medication usage that may be caused by bioterrorism, epidemic 29083
or pandemic disease, or established or novel infectious agents or 29084
biological toxins posing a risk of human fatality or disability. 29085
Rules adopted under this section may require a report of any of 29086
the following: 29087

(1) An unexpected increase in the number of prescriptions for 29088
antibiotics; 29089

(2) An unexpected increase in the number of prescriptions for 29090
medication to treat fever or respiratory or gastrointestinal 29091
complaints; 29092

(3) An unexpected increase in sales of, or the number of 29093
requests for information on, over-the-counter medication to treat 29094
fever or respiratory or gastrointestinal complaints; 29095

(4) Any prescription for medication used to treat a disease 29096
that is relatively uncommon and may have been caused by 29097
bioterrorism. 29098

(C) No person shall fail to comply with any reporting 29099
requirement established in rules adopted under division (B) of 29100
this section. 29101

(D) Information reported under this section that is protected 29102
health information pursuant to section 3701.17 of the Revised Code 29103
shall be released only in accordance with that section. 29104
Information that does not identify an individual may be released 29105
in summary, statistical, or aggregate form. 29106

Sec. 3701.24. (A) As used in this section and sections 29107
3701.241 to 3701.249 of the Revised Code: 29108

(1) "AIDS" means the illness designated as acquired 29109
immunodeficiency syndrome. 29110

(2) "HIV" means the human immunodeficiency virus identified 29111
as the causative agent of AIDS. 29112

- (3) "AIDS-related condition" means symptoms of illness 29113
related to HIV infection, including AIDS-related complex, that are 29114
confirmed by a positive HIV test. 29115
- (4) "HIV test" means any test for the antibody or antigen to 29116
HIV that has been approved by the director of health under 29117
division (B) of section 3701.241 of the Revised Code. 29118
- (5) "Health care facility" has the same meaning as in section 29119
1751.01 of the Revised Code. 29120
- (6) "Director" means the director of health or any employee 29121
of the department of health acting on the director's behalf. 29122
- (7) "Physician" means a person who holds a current, valid 29123
certificate issued under Chapter 4731. of the Revised Code 29124
authorizing the practice of medicine or surgery and osteopathic 29125
medicine and surgery. 29126
- (8) "Nurse" means a registered nurse or licensed practical 29127
nurse who holds a license or certificate issued under Chapter 29128
4723. of the Revised Code. 29129
- (9) "Anonymous test" means an HIV test administered so that 29130
the individual to be tested can give informed consent to the test 29131
and receive the results by means of a code system that does not 29132
link the identity of the individual tested to the request for the 29133
test or the test results. 29134
- (10) "Confidential test" means an HIV test administered so 29135
that the identity of the individual tested is linked to the test 29136
but is held in confidence to the extent provided by sections 29137
3701.24 to 3701.248 of the Revised Code. 29138
- (11) "Health care provider" means an individual who provides 29139
diagnostic, evaluative, or treatment services. Pursuant to Chapter 29140
119. of the Revised Code, the ~~public health council~~ director may 29141
adopt rules further defining the scope of the term "health care 29142

provider." 29143

(12) "Significant exposure to body fluids" means a 29144
percutaneous or mucous membrane exposure of an individual to the 29145
blood, semen, vaginal secretions, or spinal, synovial, pleural, 29146
peritoneal, pericardial, or amniotic fluid of another individual. 29147

(13) "Emergency medical services worker" means all of the 29148
following: 29149

(a) A peace officer; 29150

(b) An employee of an emergency medical service organization 29151
as defined in section 4765.01 of the Revised Code; 29152

(c) A firefighter employed by a political subdivision; 29153

(d) A volunteer firefighter, emergency operator, or rescue 29154
operator; 29155

(e) An employee of a private organization that renders rescue 29156
services, emergency medical services, or emergency medical 29157
transportation to accident victims and persons suffering serious 29158
illness or injury. 29159

(14) "Peace officer" has the same meaning as in division (A) 29160
of section 109.71 of the Revised Code, except that it also 29161
includes a sheriff and the superintendent and troopers of the 29162
state highway patrol. 29163

(B) Persons designated by rule adopted by the ~~public health~~ 29164
council director under section 3701.241 of the Revised Code shall 29165
report promptly every case of AIDS, every AIDS-related condition, 29166
and every confirmed positive HIV test to the department of health 29167
on forms and in a manner prescribed by the director. In each 29168
county the director shall designate the health commissioner of a 29169
health district in the county to receive the reports. 29170

(C) No person shall fail to comply with the reporting 29171
requirements established under division (B) of this section. 29172

(D) Information reported under this section that identifies an individual is confidential and may be released only with the written consent of the individual except as the director determines necessary to ensure the accuracy of the information, as necessary to provide treatment to the individual, as ordered by a court pursuant to section 3701.243 or 3701.247 of the Revised Code, or pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, prosecuting attorney, city director of law or similar chief legal officer of a municipal corporation, or village solicitor, in connection with a criminal investigation or prosecution. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.241. (A) The director of health shall develop and administer the following:

(1) A surveillance system to determine the number of cases of AIDS and the HIV infection rate in various population groups;

(2) Counseling and testing programs for groups determined by the director to be at risk of HIV infection, including procedures for both confidential and anonymous tests, counseling training programs for health care providers, and development of counseling guidelines;

(3) A confidential partner notification system to alert and counsel sexual contacts of individuals with HIV infection;

(4) Risk reduction and education programs for groups determined by the director to be at risk of HIV infection, and, in consultation with a wide range of community leaders, education programs for the public;

(5) Pilot programs for the long-term care of individuals with AIDS or AIDS-related condition, including care in nursing homes

and in alternative settings; 29203

(6) Programs to expand regional outpatient treatment of 29204
individuals with AIDS or AIDS-related condition; 29205

(7) A program to assist communities, including communities of 29206
less than one hundred thousand population, in establishing AIDS 29207
task forces and support groups for individuals with AIDS, 29208
AIDS-related condition, and HIV infection. The program may include 29209
the award of grants if they are matched by local funds. 29210

Information obtained or maintained under the partner 29211
notification system is not a public record under section 149.43 of 29212
the Revised Code and may be released only in accordance with 29213
division (C) of section 3701.243 of the Revised Code. 29214

(B) The director shall: 29215

(1) Approve a test or tests to be used to determine whether 29216
an individual has HIV infection, define a confirmed positive test 29217
result, and develop guidelines for interpreting test results; 29218

(2) Establish sites for confidential and anonymous HIV tests, 29219
and prepare a list of sites where an individual may obtain an 29220
anonymous test; 29221

(3) Prepare a list of counseling services; 29222

(4) Make available a copy of the list of anonymous testing 29223
sites or a copy of the list of counseling services to anyone who 29224
requests it. 29225

(C) The director of health shall require the director or 29226
administrator of each site where anonymous or confidential HIV 29227
tests are given to submit a report every three months evaluating 29228
from an epidemiologic perspective the effectiveness of the HIV 29229
testing program at that site. Not later than January 31, 1991, and 29230
each year thereafter, the director of health shall make a report 29231
evaluating the anonymous and confidential testing programs 29232

throughout the state with regard to their effectiveness as 29233
epidemiologic programs. The report shall be submitted to the 29234
speaker of the house of representatives and the president of the 29235
senate and shall be made available to the public. 29236

The ~~public~~ director of health council shall adopt rules 29237
pursuant to Chapter 119. of the Revised Code for the 29238
implementation of the requirements of division (B)(1) of this 29239
section and division (D) of section 3701.24 of the Revised Code. 29240

(D) The director of health shall administer funds received 29241
under Title XXVI of the "Public Health Services Act," 104 Stat. 29242
576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve 29243
the quality and availability of care for individuals with AIDS, 29244
AIDS-related condition, and HIV infection. In administering these 29245
funds, the director may enter into contracts with any person or 29246
entity for the purpose of administering the programs, including 29247
contracts with the department of job and family services for 29248
establishment of a program of reimbursement of drugs used for 29249
treatment and care of such individuals. The director of health may 29250
adopt rules in accordance with Chapter 119. of the Revised Code 29251
and issue orders as necessary for administration of the funds. If 29252
the department of job and family services enters into a contract 29253
under this division, the director of job and family services may 29254
adopt rules in accordance with Chapter 119. of the Revised Code as 29255
necessary for carrying out the department's duties under the 29256
contract. 29257

Sec. 3701.242. (A) An HIV test may be performed by or on the 29258
order of a health care provider who, in the exercise of the 29259
provider's professional judgment, determines the test to be 29260
necessary for providing diagnosis and treatment to the individual 29261
to be tested, if the individual or the individual's parent or 29262
guardian has given consent to the provider for medical or other 29263

health care treatment. The health care provider shall inform the individual of the individual's right under division (D) of this section to an anonymous test.

(B) A minor may consent to be given an HIV test. The consent is not subject to disaffirmance because of minority. The parents or guardian of a minor giving consent under this division are not liable for payment and shall not be charged for an HIV test given to the minor without the consent of a parent or the guardian.

(C) The health care provider ordering an HIV test shall provide post-test counseling for an individual who receives an HIV-positive test result. The ~~public director of health council~~ may adopt rules, ~~pursuant to recommendations from the director of health and~~ in accordance with Chapter 119. of the Revised Code, specifying the information to be provided in post-test counseling.

(D) An individual shall have the right to an anonymous test. A health care facility or health care provider that does not provide anonymous testing shall refer an individual requesting an anonymous test to a site where it is available.

(E) Divisions (B) to (D) of this section do not apply to the performance of an HIV test in any of the following circumstances:

(1) When the test is performed in a medical emergency by a nurse or physician and the test results are medically necessary to avoid or minimize an immediate danger to the health or safety of the individual to be tested or another individual, except that post-test counseling shall be given to the individual if the individual receives an HIV-positive test result;

(2) When the test is performed for the purpose of research if the researcher does not know and cannot determine the identity of the individual tested;

(3) When the test is performed by a person who procures, processes, distributes, or uses a human body part from a deceased

person donated for a purpose specified in Chapter 2108. of the 29295
Revised Code, if the test is medically necessary to ensure that 29296
the body part is acceptable for its intended purpose; 29297

(4) When the test is performed on a person incarcerated in a 29298
correctional institution under the control of the department of 29299
rehabilitation and correction if the head of the institution has 29300
determined, based on good cause, that a test is necessary; 29301

(5) When the test is performed in accordance with section 29302
2907.27 of the Revised Code; 29303

(6) When the test is performed on an individual after the 29304
infection control committee of a health care facility, or other 29305
body of a health care facility performing a similar function 29306
determines that a health care provider, emergency medical services 29307
worker, or peace officer, while rendering health or emergency care 29308
to an individual, has sustained a significant exposure to the body 29309
fluids of that individual, and the individual has refused to give 29310
consent for testing. 29311

Sec. 3701.248. (A) As used in this section: 29312

(1) "Contagious or infectious disease" means a disease 29313
specified ~~by rule~~ in rules adopted by the ~~public director of~~ 29314
health ~~council~~ pursuant to division (F) of this section. 29315

(2) "Patient" means either of the following: 29316

(a) A person, whether alive or dead, who has been treated, or 29317
handled, or transported for medical care by an emergency medical 29318
services worker; 29319

(b) A deceased person whose body is handled by a funeral 29320
services worker. 29321

(3) "Significant exposure" means: 29322

(a) A percutaneous or mucous membrane exposure of an 29323

individual to the blood, semen, vaginal secretions, or spinal, 29324
synovial, pleural, peritoneal, pericardial, or amniotic fluid of 29325
another person; 29326

(b) Exposure to a contagious or infectious disease. 29327

(4) "Funeral services worker" means a person licensed as a 29328
funeral director or embalmer under Chapter 4717. of the Revised 29329
Code or an individual responsible for the direct final disposition 29330
of a deceased person. 29331

(B)(1) An emergency medical services worker or funeral 29332
services worker who believes that significant exposure has 29333
occurred through the worker's contact with a patient may submit to 29334
the health care facility or coroner that received the patient a 29335
written request to be notified of the results of any test 29336
performed on the patient to determine the presence of a contagious 29337
or infectious disease. The request shall include: 29338

(a) The name, address, and telephone number of the individual 29339
submitting the request; 29340

(b) The name of the individual's employer, or, in the case of 29341
a volunteer emergency medical services worker, the entity for 29342
which the worker volunteers, and the individual's supervisor; 29343

(c) The date, time, location, and manner of the exposure. 29344

(2) The request for notification that is submitted by an 29345
emergency medical services worker pursuant to division (B)(1) of 29346
this section is valid for ten days after it is made. If at the end 29347
of that ten-day period no test has been performed to determine the 29348
presence of a contagious or infectious disease, no diagnosis has 29349
been made, or the result of the test is negative, the health care 29350
facility or coroner shall notify the emergency medical services 29351
worker. The notification shall not include the name of the 29352
patient. If necessary, the request may be renewed in accordance 29353
with the same procedures and requirements as the original request. 29354

(3) A health care facility or coroner shall respond 29355
immediately to a request for notification submitted pursuant to 29356
division (B)(1) of this section by a funeral services worker. If 29357
no test has been performed to determine the presence of a 29358
contagious or infectious disease, no diagnosis has been made, or 29359
the result of a test that was performed is negative, the health 29360
care facility or coroner shall immediately notify the funeral 29361
services worker. The notification shall not include the name of 29362
the patient. 29363

On receipt of notification that no test has been performed to 29364
determine the presence of a contagious or infectious disease in a 29365
patient, the funeral services worker may have a test performed on 29366
the patient. The test shall be performed in accordance with rules 29367
adopted by the department of health pursuant to division (G) of 29368
this section. 29369

The consent of the patient's family is not required for 29370
performance of a test pursuant to division (B)(3) of this section. 29371

(C) The health care facility or coroner that receives a 29372
written request for notification shall give an oral notification 29373
of the presence of a contagious or infectious disease, or of a 29374
confirmed positive test result, if known, to the person who made 29375
the request and the person's supervisor and to the infection 29376
control committee or other body described in division (E)(6) of 29377
section 3701.242 of the Revised Code within two days after 29378
determining the presence of a contagious or infectious disease or 29379
after a confirmed positive test result. A written notification 29380
shall follow oral notification within three days. If a contagious 29381
or infectious disease is present, or the test results are 29382
confirmed positive, both the oral and written notification shall 29383
include the name of the disease, its signs and symptoms, the date 29384
of exposure, the incubation period, the mode of transmission of 29385
the disease, the medical precautions necessary to prevent 29386

transmission to other persons, and the appropriate prophylaxis, 29387
treatment, and counseling for the disease. The notification shall 29388
not include the name of the patient. 29389

If the request is made by an emergency medical services 29390
worker and the information is not available from the health care 29391
facility to which the request is made because the patient has been 29392
transferred from that health care facility, the facility shall 29393
assist the emergency medical services worker in locating the 29394
patient and securing the requested information from the health 29395
care facility that treated or is treating the patient. If the 29396
patient has died, the health care facility shall give the 29397
emergency medical services worker the name and address of the 29398
coroner who received the patient. 29399

(D) Each health care facility and coroner shall develop 29400
written procedures to implement the notification procedures 29401
required by this section. A health care facility or coroner may 29402
take measures in addition to those required in this section to 29403
notify emergency medical services workers and funeral services 29404
workers of possible exposure to a contagious or infectious disease 29405
as long as the confidentiality of the information is maintained. 29406

(E) No person shall knowingly fail to comply with division 29407
(C) of this section. 29408

(F) The ~~public~~ director of health ~~council~~ shall adopt rules 29409
in accordance with Chapter 119. of the Revised Code that specify 29410
the diseases that are reasonably likely to be transmitted by air 29411
or blood during the normal course of duties performed by an 29412
emergency medical services worker or funeral services worker. In 29413
adopting such rules, the ~~council~~ director shall consider the types 29414
of contact that typically occur between patients and emergency 29415
medical services workers and funeral services workers. 29416

(G) The department of health shall adopt rules in accordance 29417

with Chapter 119. of the Revised Code specifying the procedures a 29418
funeral services worker must follow when having a test performed 29419
on a patient pursuant to division (B)(3) of this section. The 29420
rules shall specify how and by whom the test is to be performed. 29421
The rules shall require the funeral services worker or the funeral 29422
services worker's employer to pay the cost of the test. No health 29423
care facility shall be required to perform the test. 29424

Sec. 3701.341. (A) The ~~public~~ director of health council, 29425
pursuant to Chapter 119. and consistent with section 2317.56 of 29426
the Revised Code, shall adopt rules relating to abortions and the 29427
following subjects: 29428

(1) Post-abortion procedures to protect the health of the 29429
pregnant woman; 29430

(2) Pathological reports; 29431

(3) Humane disposition of the product of human conception; 29432

(4) Counseling. 29433

(B) The director of health shall implement the rules and 29434
shall apply to the court of common pleas for temporary or 29435
permanent injunctions restraining a violation or threatened 29436
violation of the rules. This action is an additional remedy not 29437
dependent on the adequacy of the remedy at law. 29438

Sec. 3701.342. After consultation with the public health 29439
standards task force established under section 3701.343 of the 29440
Revised Code, the ~~public~~ director of health council shall adopt 29441
rules establishing minimum standards and optimum achievable 29442
standards for boards of health and local health departments. The 29443
minimum standards shall assure that boards of health and local 29444
health departments provide for: 29445

(A) Analysis and prevention of communicable disease; 29446

(B) Analysis of the causes of, and appropriate treatment for, the leading causes of morbidity and mortality; 29447
29448

(C) The administration and management of the local health department; 29449
29450

(D) Access to primary health care by medically underserved individuals; 29451
29452

(E) Environmental health management programs; 29453

(F) Health promotion services designed to encourage individual and community wellness. 29454
29455

The ~~public health council~~ director shall adopt rules 29456
establishing a formula for distribution of state health district 29457
subsidy funds to boards of health and local health departments. 29458
The formula shall provide no subsidy funds to a board or 29459
department unless it meets minimum standards and shall provide 29460
higher funding levels for boards and districts that meet optimum 29461
achievable standards. 29462

Notwithstanding section 119.03 of the Revised Code, rules 29463
adopted under this section shall not take effect unless approved 29464
by concurrent resolution of the general assembly. 29465

Sec. 3701.343. The ~~chairman~~ director of the ~~public health~~ 29466
~~council~~ shall, with the advice of the association of Ohio health 29467
commissioners ~~and the director of health~~, appoint a public health 29468
standards task force to assist and advise the ~~public health~~ 29469
~~council~~ director in formulating and evaluating the standards 29470
established under section 3701.342 of the Revised Code for the 29471
provision of public health services. ~~The task force shall~~ 29472
~~recommend its standards for all categories mentioned in section~~ 29473
~~3701.342 of the Revised Code on or before March 1, 1983.~~ 29474

The task force shall have nine members, consisting of: 29475

(A) A sanitarian registered in accordance with Chapter 4736. 29476

| | |
|--|---|
| of the Revised Code; | 29477 |
| (B) A registered nurse licensed in accordance with Chapter 4723. of the Revised Code; | 29478 29479 |
| (C) A physician licensed in accordance with <u>who is authorized under</u> Chapter 4731. of the Revised Code <u>to practice medicine and surgery or osteopathic medicine and surgery;</u> | 29480 29481 29482 |
| (D) Three health commissioners; | 29483 |
| (E) Two representatives of the department of health; | 29484 |
| (F) One individual with recognized ability in public health law, public health laboratories, epidemiology, nutrition, or health education. | 29485 29486 29487 |
| The public health standards task force shall complete its work within three years after the effective date of this section and shall cease to exist upon completion of its work, provided, that the public health council may reconstitute the public health standards task force, for the purpose of reviewing, evaluating, and revising the standards mandated in section 3701.342 of the Revised Code. | 29488 29489 29490 29491 29492 29493 29494 |
| Members of the task force shall elect a chairman <u>chairperson</u> . Five members of the task force constitute a quorum and six votes are necessary to validate an action. | 29495 29496 29497 |
| Within ninety days of the effective date of this section, the chairman of the public health council shall make the appointments to the task force. Within sixty days of their appointment, the task force members shall meet, organize, and begin their work. Vacancies occurring on the task force shall be filled in the same manner as the initial appointments. | 29498 29499 29500 29501 29502 29503 |
| Members of the task force shall serve without compensation, but may be reimbursed for necessary expenses. | 29504 29505 |

Sec. 3701.344. As used in this section and sections 3701.345, 29506
3701.346, and 3701.347 of the Revised Code: 29507

(A) "Private water system" means any water system for the 29508
provision of water for human consumption, if such system has fewer 29509
than fifteen service connections and does not regularly serve an 29510
average of at least twenty-five individuals daily at least sixty 29511
days out of the year. A private water system includes any well, 29512
spring, cistern, pond, or hauled water and any equipment for the 29513
collection, transportation, filtration, disinfection, treatment, 29514
or storage of such water extending from and including the source 29515
of the water to the point of discharge from any pressure tank or 29516
other storage vessel; to the point of discharge from the water 29517
pump where no pressure tank or other storage vessel is present; 29518
or, in the case of multiple service connections serving more than 29519
one dwelling, to the point of discharge from each service 29520
connection. "Private water system" does not include the water 29521
service line extending from the point of discharge to a structure. 29522

(B) Notwithstanding section 3701.347 of the Revised Code and 29523
subject to division (C) of this section, rules adopted by the 29524
~~public director of health council~~ regarding private water systems 29525
shall provide for the following: 29526

(1) Except as otherwise provided in this division, boards of 29527
health of city or general health districts shall be given the 29528
exclusive power to establish fees in accordance with section 29529
3709.09 of the Revised Code for administering and enforcing such 29530
rules. Such fees shall establish a different rate for 29531
administering and enforcing the rules relative to private water 29532
systems serving single-family dwelling houses and nonsingle-family 29533
dwelling houses. Except for an amount established by the ~~public~~ 29534
~~health council~~ director, pursuant to division (B)(5) of this 29535
section, for each new private water system installation, no 29536

portion of any fee for administering and enforcing such rules 29537
shall be returned to the department of health. If the director of 29538
health determines that a board of health of a city or general 29539
health district is unable to administer and enforce a private 29540
water system program in the district, the director shall 29541
administer and enforce such a program in the district and 29542
establish fees for such administration and enforcement. 29543

(2) Boards of health of city or general health districts 29544
shall be given the exclusive power to determine the number of 29545
inspections necessary for determining the safe drinking 29546
characteristics of a private water system. 29547

(3) Private water systems contractors, as a condition of 29548
doing business in this state, shall annually register with, and 29549
comply with surety bonding requirements of, the department of 29550
health. No such contractor shall be permitted to register if the 29551
contractor fails to comply with all applicable rules adopted by 29552
the ~~public health council~~ director and the board of health of the 29553
city or general health district. The annual registration fee for 29554
private water systems contractors shall be sixty-five dollars. The 29555
~~public health council~~ director, by rule adopted in accordance with 29556
Chapter 119. of the Revised Code, may increase the annual 29557
registration fee. ~~Before January 1, 1993, the fee shall not be~~ 29558
~~increased by more than fifty per cent of the amount prescribed by~~ 29559
~~this section.~~ 29560

(4) ~~Boards~~ Subject to rules adopted by the director, boards 29561
of health of city or general health districts ~~subject to such~~ 29562
~~rules of the public health council~~ shall have the option of 29563
determining whether bacteriological examinations shall be 29564
performed at approved laboratories of the state or at approved 29565
private laboratories. 29566

(5) The ~~public health council~~ director may establish fees for 29567
each new private water system installation, which shall be 29568

collected by the appropriate board of health and transmitted to 29569
the director ~~of health~~ pursuant to section 3709.092 of the Revised 29570
Code. 29571

(6) All fees received by the director of health under 29572
divisions (B)(1), (3), and (5) of this section shall be deposited 29573
in the state treasury to the credit of the general operations fund 29574
created in section 3701.83 of the Revised Code for use in the 29575
administration and enforcement of sections 3701.344 to 3701.347 of 29576
the Revised Code and the rules pertaining to private water systems 29577
adopted under those sections ~~or section 3701.34 of the Revised~~ 29578
~~Code.~~ 29579

(C) To the extent that rules adopted under division (B) of 29580
this section require health districts to follow specific 29581
procedures or use prescribed forms, no such procedure or form 29582
shall be implemented until it is approved by majority vote of an 29583
approval board of health commissioners, hereby created. Members of 29584
the board shall be the officers of the association of Ohio health 29585
commissioners, or any successor organization, and membership on 29586
the board shall be coterminous with holding an office of the 29587
association. No health district is required to follow a procedure 29588
or use a form required by a rule adopted under division (B) of 29589
this section without the approval of the board. 29590

(D) A board of health shall collect well log filing fees on 29591
behalf of the division of soil and water resources in the 29592
department of natural resources in accordance with section 1521.05 29593
of the Revised Code and rules adopted under it. The fees shall be 29594
submitted to the division quarterly as provided in those rules. 29595

Sec. 3701.345. Any applicant for a permit to construct, 29596
develop, install, or modify a private water system required by 29597
rules adopted by the ~~public director of health council~~ under 29598
~~sections 3701.34 and section~~ 3701.347 of the Revised Code may 29599

apply to the board of health of the city or general health 29600
district administering and enforcing the private water supply 29601
program in the health district in which the private water system 29602
is or is to be located or, if the health district is not 29603
administering and enforcing the program, may apply to the 29604
department of health for a variance from such rules governing the 29605
design, construction, development, installation, or modification 29606
of private water systems. The application for a variance shall be 29607
made in writing and shall include a statement of the particular 29608
rule or rules from which a variance is sought, a description of 29609
the proposed system or modification, and the necessity for the 29610
variance. The board of health or the department of health shall 29611
not grant a variance unless the applicant demonstrates that: 29612

(A) There will be an unusual and unnecessary hardship in 29613
complying with the rules from which the variance is sought; 29614

(B) Contamination of the private water system will not occur 29615
as a result of construction and operation of the system as 29616
proposed by the variance application; 29617

(C) The health of persons using water from the private water 29618
system will not be endangered as a result of construction and 29619
operation of the system as proposed by the variance application; 29620
and 29621

(D) No other technically feasible and economically reasonable 29622
means exist for obtaining water from the proposed type of water 29623
source. 29624

Sec. 3701.347. Notwithstanding division (E) of section 29625
6111.42 of the Revised Code, rules adopted under such division and 29626
in effect on December 14, 1978, shall continue in effect until 29627
repealed by the environmental protection agency or superseded by 29628
rules ~~of~~ adopted by the public director of health council as 29629
hereinafter provided, as fully as if such section had not been 29630

amended by Amended Substitute Senate Bill No. 445 of the 112th 29631
general assembly on such date. Insofar as these rules affect wells 29632
for the provision of water for human consumption not used or for 29633
use by a public water system, they shall remain in effect 29634
notwithstanding repeal by the environmental protection agency 29635
until the ~~public health council~~ director adopts rules superseding 29636
them which prescribe uniform standards and procedures for the 29637
design, construction, inspection, installation, development, 29638
maintenance, and abandonment of private water systems, to protect 29639
the health of the persons served by such water systems and to 29640
establish fees at a level calculated to pay the cost of 29641
administering and enforcing such rules by the director ~~health~~ or 29642
by boards of health of city and general health districts approved 29643
by the director of health. For purposes of this section "public 29644
water system" has the meaning ascribed to it in section 6109.01 of 29645
the Revised Code. 29646

Sec. 3701.352. No person shall violate any rule the ~~public~~ 29647
~~health council~~, director of health, or department of health adopts 29648
or any order the director or department of health issues under 29649
this chapter to prevent a threat to the public caused by a 29650
pandemic, epidemic, or bioterrorism event. 29651

Sec. 3701.40. The ~~public~~ director of health ~~council~~ shall by 29652
rule prescribe minimum standards for the maintenance and operation 29653
of hospitals and medical facilities which shall receive federal 29654
aid for construction under the state plan provided for by section 29655
3701.39 of the Revised Code. 29656

Boards of trustees or directors of institutions required to 29657
comply with sections 3701.01, 3701.04, 3701.08, 3701.09, and 29658
3701.37 to 3701.45 of the Revised Code shall have the right to 29659
select the professional staff members of such institutions and to 29660
select and employ interns, nurses, and other personnel, and no 29661

rules, regulations, or standards of the director of health ~~or the~~ 29662
~~public health council~~ adopted or promulgated severally or jointly 29663
shall be valid which, if enforced, would interfere in such 29664
selection or employment. 29665

The director of health may petition the common pleas court of 29666
the county in which any hospital or medical facility is located 29667
for an order enjoining any person, firm, partnership, association, 29668
corporation, or other entity, private or public, from operating a 29669
hospital or medical facility in violation of any rules adopted 29670
under this section. Irrespective of any other remedy the director 29671
may have in law or equity the court has jurisdiction to grant such 29672
injunctive relief upon a showing that the respondent named in the 29673
petition is operating in violation of such rules. 29674

Sec. 3701.503. As used in sections 3701.504 to 3701.509 of 29675
the Revised Code: 29676

(A) "Parent" means either parent, unless the parents are 29677
separated or divorced or their marriage has been dissolved or 29678
annulled, in which case "parent" means the parent who is the 29679
residential parent and legal custodian. 29680

(B) "Guardian" has the same meaning as in section 2111.01 of 29681
the Revised Code. 29682

(C) "Custodian" means, except as used in division (A) of this 29683
section, a government agency or an individual, other than the 29684
parent or guardian, with legal or permanent custody of a child as 29685
defined in section 2151.011 of the Revised Code. 29686

(D) "Hearing screening" means the identification of newborns 29687
and infants who may have a hearing impairment, through the use of 29688
a physiologic test. 29689

(E) "Hearing evaluation" means evaluation through the use of 29690
audiological procedures by an audiologist or physician. 29691

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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. | 29692 29693 29694 |
| (G) "Newborn" means a child who is less than thirty days old. | 29695 |
| (H) "Infant" means a child who is at least thirty days but less than twenty-four months old. | 29696 29697 |
| (I) "Freestanding birthing center" has the same meaning as in section 3702.51 <u>3702.141</u> of the Revised Code. | 29698 29699 |
| (J) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. | 29700 29701 29702 |
| (K) "Audiologist" means an individual authorized under section 4753.07 of the Revised Code to practice audiology. | 29703 29704 |
| (L) "Hospital" means a hospital that has a maternity unit or newborn nursery. | 29705 29706 |
| (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. | 29707 29708 29709 29710 29711 |
| (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. | 29712 29713 29714 |
| Sec. 3701.507. (A) To assist in implementing sections 3701.503 to 3701.509 of the Revised Code, the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code shall appoint a permanent infant hearing screening subcommittee. The subcommittee shall consist of the following members: | 29715 29716 29717 29718 29719 29720 |

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| (1) One otolaryngologist; | 29721 |
| (2) One neonatologist; | 29722 |
| (3) One pediatrician; | 29723 |
| (4) One neurologist; | 29724 |
| (5) One hospital administrator; | 29725 |
| (6) Two or more audiologists who are experienced in infant hearing screening and evaluation; | 29726 29727 |
| (7) One speech-language pathologist licensed under section 4753.07 of the Revised Code; | 29728 29729 |
| (8) Two persons who are each a parent of a hearing-impaired child; | 29730 29731 |
| (9) One geneticist; | 29732 |
| (10) One epidemiologist; | 29733 |
| (11) One adult who is deaf or hearing impaired; | 29734 |
| (12) One representative from an organization for the deaf or hearing impaired; | 29735 29736 |
| (13) One family advocate; | 29737 |
| (14) One nurse from a well-baby neonatal nursery; | 29738 |
| (15) One nurse from a special care neonatal nursery; | 29739 |
| (16) One teacher of the deaf who works with infants and toddlers; | 29740 29741 |
| (17) One representative of the health insurance industry; | 29742 |
| (18) One representative of the bureau for children with medical handicaps; | 29743 29744 |
| (19) One representative of the department of education; | 29745 |
| (20) One representative of the Ohio department of job and family services who has responsibilities regarding medicaid; | 29746 29747 |

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| (21) Any other person the advisory council appoints. | 29748 |
| (B) The infant hearing subcommittee shall: | 29749 |
| (1) Consult with the director of health regarding the administration of sections 3701.503 to 3701.509 of the Revised Code; | 29750 29751 29752 |
| (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; | 29753 29754 29755 |
| (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: | 29756 29757 29758 29759 |
| (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; | 29760 29761 29762 29763 |
| (b) Identification of locations where hearing evaluations may be conducted; | 29764 29765 |
| (c) Recommendations for methods and techniques of hearing screening and hearing evaluation; | 29766 29767 |
| (d) Referral, data recording and compilation, and procedures to encourage follow-up hearing care; | 29768 29769 |
| (e) Maintenance of a register of newborns and infants who do not pass the hearing screening; | 29770 29771 |
| (f) Preparation of the information required by section 3701.506 of the Revised Code and any other information the public health council requires the department of health to provide. | 29772 29773 29774 |
| Sec. 3701.508. (A) The public <u>director of health</u> council shall adopt rules governing the statewide hearing screening, | 29775 29776 |

tracking, and early intervention program established under section 29777
3701.504 of the Revised Code, including rules that do all of the 29778
following: 29779

(1) Specify how hospitals and freestanding birthing centers 29780
are to comply with the requirements of section 3701.505 of the 29781
Revised Code, including methods to be used for hearing screening, 29782
except that with regard to the physiologic equipment to be used 29783
for hearing screening, the rules may require only that the 29784
equipment be capable of giving reliable results and may not 29785
specify particular equipment or a particular type of equipment; 29786

(2) Provide that no newborn or infant shall be required to 29787
undergo a hearing screening if the parent, guardian, or custodian 29788
of the newborn or infant objects on the grounds that the screening 29789
conflicts with the parent's, guardian's, or custodian's religious 29790
tenets and practices; 29791

(3) Provide for situations in which the parent, guardian, or 29792
custodian of a newborn or infant objects to a hearing screening 29793
for reasons other than religious tenets and practices; 29794

(4) Specify how the department of health will determine 29795
whether a person is financially unable to pay for a hearing 29796
screening and define "third-party payer" for the purpose of 29797
reimbursement of hearing screening by the department under section 29798
3701.505 of the Revised Code; 29799

(5) Specify an inexpensive and efficient format and 29800
procedures for the submission of hearing screening information 29801
from hospitals and freestanding birthing centers to the department 29802
of health; 29803

(6) Specify a procedure whereby the department may conduct 29804
timely reviews of hearing screening information submissions for 29805
purposes of quality assurance, training, and disease prevention 29806

and control; 29807

(7) Specify any additional information that hospitals and 29808
freestanding birthing centers are to provide to the medically 29809
handicapped children's medical advisory council's infant hearing 29810
screening subcommittee under section 3701.509 of the Revised Code. 29811

(B) In addition to the rules adopted under division (A) of 29812
this section, the ~~council~~ director shall adopt rules that specify 29813
the training that must be completed by persons who will conduct 29814
hearing screenings. In adopting these rules, the ~~council~~ director 29815
shall consider incorporating cost-saving training methods, 29816
including computer-assisted learning and on-site training. Neither 29817
the rules nor the director of health may establish a minimum 29818
educational level for persons conducting hearing screenings. 29819

(C) All rules adopted under this section shall be adopted in 29820
accordance with Chapter 119. of the Revised Code and shall be 29821
adopted so as to take effect not later than six months after ~~the~~ 29822
~~effective date of this section~~ August 1, 2002. 29823

Sec. 3701.509. (A) The department of health shall develop a 29824
mechanism to analyze and interpret the hearing screening 29825
information to be reported under division (B) of this section. The 29826
department shall notify all hospitals and freestanding birthing 29827
centers subject to the reporting requirements of the date the 29828
department anticipates that the mechanism will be complete. After 29829
the mechanism is complete, the department shall notify each 29830
hospital and freestanding birthing center subject to the reporting 29831
requirement of the date by which the hospital or center must 29832
submit its first report. 29833

(B) Subject to division (A) of this section and in accordance 29834
with rules adopted by the ~~public~~ director of health ~~council~~ under 29835
section 3701.508 of the Revised Code, each hospital and 29836
freestanding birthing center that has conducted a hearing 29837

screening required by section 3701.505 of the Revised Code shall 29838
provide to the department of health for use by the medically 29839
handicapped children's medical advisory council's infant hearing 29840
screening subcommittee information specifying all of the 29841
following: 29842

(1) The number of newborns born in the hospital or 29843
freestanding birthing center and the number of newborns and 29844
infants not screened because they were transferred to another 29845
hospital; 29846

(2) The number of newborns and infants referred to the 29847
hospital or freestanding birthing center for a hearing screening 29848
and the number of those newborns and infants who received a 29849
hearing screening; 29850

(3) The number of newborns and infants who did not pass the 29851
hearing screenings conducted by the hospital or freestanding 29852
birthing center; 29853

(4) Any other information concerning the program established 29854
under section 3701.504 of the Revised Code. 29855

(C) The department of health shall conduct a timely review of 29856
the information submitted by hospitals and freestanding birthing 29857
centers in accordance with rules adopted by the ~~public health~~ 29858
~~council~~ director under section 3701.508 of the Revised Code. 29859

(D) The infant hearing screening subcommittee, with the 29860
support of the department of health, shall compile and summarize 29861
the information submitted to the department by hospitals and 29862
freestanding birthing centers under division (B) of this section. 29863
Beginning with the first year after the mechanism developed under 29864
division (A) of this section is complete, the subcommittee shall 29865
annually prepare and transmit a report to the director of health, 29866
the speaker of the house of representatives, and the president of 29867
the senate. The council shall make the report available to the 29868

public. 29869

(E) The department and all members of the subcommittee shall 29870
maintain the confidentiality of patient-identifying information 29871
submitted under division (B) of this section and section 3701.505 29872
of the Revised Code. The information is not a public record under 29873
section 149.43 of the Revised Code, except to the extent that the 29874
information is used in preparing reports under this section. 29875

Nothing in this division prohibits the department from 29876
providing patient-identifying information to other entities as it 29877
considers necessary to implement the statewide tracking and early 29878
intervention components of the program established under section 29879
3701.504 of the Revised Code. Any entity that receives 29880
patient-identifying information from the department shall maintain 29881
the confidentiality of the information. 29882

Sec. 3701.57. All prosecutions and proceedings by the 29883
department of health for the violation of sections 3701.01 to 29884
3701.56, 3705.01 to 3705.29, 3707.06, 3709.01 to 3709.04, 3709.07 29885
to 3709.11, 3709.13, 3709.17, 3709.18, and 3709.21 to 3709.36 of 29886
the Revised Code, or for the violation of any of the orders or 29887
rules of the department, shall be instituted by the director of 29888
health. Except as provided in division (C) of section 3701.571 of 29889
the Revised Code, all fines or judgments the department collects 29890
shall be paid into the state treasury to the credit of the general 29891
revenue fund. 29892

The director of health, the board of health of a general or 29893
city health district, or any person charged with enforcing the 29894
rules of the department of health as provided in section 3701.56 29895
of the Revised Code may petition the court of common pleas for 29896
injunctive or other appropriate relief requiring any person 29897
violating a rule adopted by ~~the public health council under~~ 29898
~~section 3701.34 of the Revised Code~~ or any order issued by the 29899

director of health under this chapter to comply with such rule or order. The court of common pleas of the county in which the offense is alleged to be occurring may grant such injunctive or other appropriate relief as the equities of the case require.

Sec. 3701.63. (A) As used in this section and section 3701.64 of the Revised Code:

(1) "Child day-care center," "type A family day-care home," and "certified type B family day-care home" have the same meanings as in section 5104.01 of the Revised Code.

(2) "Child care facility" means a child day-care center, a type A family day-care home, or a certified type B family day-care home.

(3) "Freestanding birthing center" has the same meaning as in section ~~3702.51~~ 3702.141 of the Revised Code.

(4) "Hospital" means a hospital classified pursuant to rules adopted under section 3701.07 of the Revised Code as a general hospital or children's hospital.

(5) "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.

(6) "Parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. "Parent" also means a prospective adoptive parent with whom a child is placed.

(7) "Shaken Baby Syndrome" means signs and symptoms, including, but not limited to, retinal hemorrhages in one or both eyes, subdural hematoma, or brain swelling, resulting from the

violent shaking or the shaking and impacting of the head of an 29930
infant or small child. 29931

(B) The director of health shall establish the shaken baby 29932
syndrome education program by doing all of the following: 29933

(1) By not later than one year after February 29, 2008, 29934
developing educational materials that present readily 29935
comprehensible information on shaken baby syndrome; 29936

(2) Making available on the department of health web site in 29937
an easily accessible format the educational materials developed 29938
under division (B)(1) of this section; 29939

(3) Beginning in 2009, annually assessing the effectiveness 29940
of the shaken baby syndrome education program by evaluating the 29941
reports received pursuant to section 5101.135 of the Revised Code. 29942

(C) In meeting the requirements under division (B) of this 29943
section, the director shall not develop educational materials that 29944
will impose an administrative or financial burden on any of the 29945
entities or persons listed in section 3701.64 of the Revised Code. 29946

Sec. 3701.74. (A) As used in this section and section 29947
3701.741 of the Revised Code: 29948

(1) "Ambulatory care facility" means a facility that provides 29949
medical, diagnostic, or surgical treatment to patients who do not 29950
require hospitalization, including a dialysis center, ambulatory 29951
surgical facility, cardiac catheterization facility, diagnostic 29952
imaging center, extracorporeal shock wave lithotripsy center, home 29953
health agency, inpatient hospice, birthing center, radiation 29954
therapy center, emergency facility, and an urgent care center. 29955
"Ambulatory care facility" does not include the private office of 29956
a physician or dentist, whether the office is for an individual or 29957
group practice. 29958

(2) "Chiropractor" means an individual licensed under Chapter 29959

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| 4734. of the Revised Code to practice chiropractic. | 29960 |
| (3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services. | 29961 29962 29963 |
| (4) "Health care practitioner" means all of the following: | 29964 |
| (a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code; | 29965 29966 |
| (b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code; | 29967 29968 |
| (c) An optometrist licensed under Chapter 4725. of the Revised Code; | 29969 29970 |
| (d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code; | 29971 29972 29973 29974 |
| (e) A pharmacist licensed under Chapter 4729. of the Revised Code; | 29975 29976 |
| (f) A physician; | 29977 |
| (g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant; | 29978 29979 |
| (h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code; | 29980 29981 |
| (i) A psychologist licensed under Chapter 4732. of the Revised Code; | 29982 29983 |
| (j) A chiropractor; | 29984 |
| (k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code; | 29985 29986 |
| (l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code; | 29987 29988 |

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| (m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code; | 29989 29990 |
| (n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code; | 29991 29992 |
| (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; | 29993 29994 29995 29996 |
| (p) A dietitian licensed under Chapter 4759. of the Revised Code; | 29997 29998 |
| (q) A respiratory care professional licensed under Chapter 4761. of the Revised Code; | 29999 30000 |
| (r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code. | 30001 30002 30003 |
| (5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner. | 30004 30005 30006 |
| (6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. | 30007 30008 |
| (7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care a residential facility, as defined in licensed under section 5119.70 <u>5119.22</u> of the Revised Code <u>that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults</u> ; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the | 30009 30010 30011 30012 30013 30014 30015 30016 30017 30018 |

"Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. 30019
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(8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment. 30021
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(9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative. 30025
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(10) "Patient" means either of the following: 30030

(a) An individual who received health care treatment from a health care provider; 30031
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(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section. 30033
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(11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division. 30036
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(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code. 30048
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(13) "Physician" means a person authorized under Chapter 30050
4731. of the Revised Code to practice medicine and surgery, 30051
osteopathic medicine and surgery, or podiatric medicine and 30052
surgery. 30053

(14) "Authorized person" means a person to whom a patient has 30054
given written authorization to act on the patient's behalf 30055
regarding the patient's medical record. 30056

(B) A patient, a patient's personal representative or an 30057
authorized person who wishes to examine or obtain a copy of part 30058
or all of a medical record shall submit to the health care 30059
provider a written request signed by the patient, personal 30060
representative, or authorized person dated not more than one year 30061
before the date on which it is submitted. The request shall 30062
indicate whether the copy is to be sent to the requestor, 30063
physician or chiropractor, or held for the requestor at the office 30064
of the health care provider. Within a reasonable time after 30065
receiving a request that meets the requirements of this division 30066
and includes sufficient information to identify the record 30067
requested, a health care provider that has the patient's medical 30068
records shall permit the patient to examine the record during 30069
regular business hours without charge or, on request, shall 30070
provide a copy of the record in accordance with section 3701.741 30071
of the Revised Code, except that if a physician or chiropractor 30072
who has treated the patient determines for clearly stated 30073
treatment reasons that disclosure of the requested record is 30074
likely to have an adverse effect on the patient, the health care 30075
provider shall provide the record to a physician or chiropractor 30076
designated by the patient. The health care provider shall take 30077
reasonable steps to establish the identity of the person making 30078
the request to examine or obtain a copy of the patient's record. 30079

(C) If a health care provider fails to furnish a medical 30080
record as required by division (B) of this section, the patient, 30081

personal representative, or authorized person who requested the 30082
record may bring a civil action to enforce the patient's right of 30083
access to the record. 30084

(D)(1) This section does not apply to medical records whose 30085
release is covered by section 173.20 or 3721.13 of the Revised 30086
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 30087
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 30088
Records," or by 42 C.F.R. 483.10. 30089

(2) Nothing in this section is intended to supersede the 30090
confidentiality provisions of sections 2305.24, 2305.25, 2305.251, 30091
and 2305.252 of the Revised Code. 30092

Sec. 3701.77. (A) The department of health may establish, 30093
promote, and maintain a lupus education and awareness program with 30094
an emphasis on at-risk communities to raise public awareness, 30095
educate consumers, and educate and train health professionals, 30096
human services providers, and other audiences. 30097

(B) The department, in creating and implementing the program, 30098
may do all of the following: 30099

(1) Provide sufficient staff and appropriate training to 30100
implement the program; 30101

(2) Establish a grant program to support nonprofit voluntary 30102
health organizations with expertise in lupus to increase public 30103
awareness and enhance health professional education and 30104
understanding of the symptoms and consequences of lupus and the 30105
populations most at risk; 30106

(3) Establish an intergovernmental council and advisory panel 30107
to oversee the implementation of the program; 30108

(4) Identify the appropriate entities to carry out the 30109
program; 30110

(5) Base the program on the most current scientific 30111

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| <u>information and findings;</u> | 30112 |
| <u>(6) Work with government entities, community and business</u> | 30113 |
| <u>leaders, community organizations, health and human services</u> | 30114 |
| <u>providers, and national, state, and local lupus organizations,</u> | 30115 |
| <u>such as the lupus foundation of America, inc., to coordinate</u> | 30116 |
| <u>efforts to maximize state resources in the areas of lupus</u> | 30117 |
| <u>education and awareness;</u> | 30118 |
| <u>(7) Identify and use other successful lupus education and</u> | 30119 |
| <u>awareness programs and procure related materials and services from</u> | 30120 |
| <u>organizations with appropriate expertise and knowledge of lupus.</u> | 30121 |
| <u>(C) The department may accept gifts, grants, and donations</u> | 30122 |
| <u>from the federal government, foundations, organizations, medical</u> | 30123 |
| <u>schools, and other entities for fulfilling the obligations of the</u> | 30124 |
| <u>program.</u> | 30125 |
| <u>(D) The department may seek any federal waiver that may be</u> | 30126 |
| <u>necessary to maximize funds from the federal government to</u> | 30127 |
| <u>implement the program.</u> | 30128 |
| <u>Sec. 3701.771. (A)(1) The department of health may conduct a</u> | 30129 |
| <u>needs assessment to identify all of the following:</u> | 30130 |
| <u>(a) The level of statewide health professional and public</u> | 30131 |
| <u>awareness about lupus;</u> | 30132 |
| <u>(b) The existence of lupus education, awareness, and</u> | 30133 |
| <u>treatment programs and related technical assistance available in</u> | 30134 |
| <u>the state and nationwide;</u> | 30135 |
| <u>(c) The lupus-related educational and support service needs</u> | 30136 |
| <u>of health care providers in the state, including physicians,</u> | 30137 |
| <u>nurses, health plans, and other health professionals and health</u> | 30138 |
| <u>care entities;</u> | 30139 |
| <u>(d) The needs of people with lupus, their families, and</u> | 30140 |
| <u>caregivers, including health care providers, physicians, nurses,</u> | 30141 |

health plans, and other health professionals and health care 30142
entities; 30143

(e) The services available to individuals with lupus, 30144
including the existence and availability of lupus treatment and 30145
specialty care, lupus support groups, and other related care and 30146
management services. 30147

(2) Based on the needs assessment, the department may develop 30148
and maintain a directory of lupus-related services and health care 30149
providers with specialization in services to diagnose and treat 30150
lupus. The department may disseminate the directory to all 30151
stakeholders, including individuals with lupus, families, 30152
representatives from voluntary organizations, health 30153
professionals, health plans, and state and local health agencies. 30154

(B) The department may undertake activities to raise public 30155
awareness about the symptoms of lupus, personal risk factors, and 30156
options for diagnosing and treating the disease with a particular 30157
focus on populations at elevated risk for lupus. Such activities 30158
may include, but are not limited to, the following: 30159

(1) Implementing a statewide campaign to educate the general 30160
public about lupus by utilizing print, radio, and television 30161
public service announcements, advertisements, posters, and other 30162
materials; 30163

(2) Disseminating health information and conducting 30164
individual risk assessments at public events, such as health fairs 30165
and community forums sponsored by the department; 30166

(3) Distributing information through local health 30167
departments; schools; area agencies on aging; employer wellness 30168
programs; physicians and other health professionals; hospitals and 30169
health plans; health, nonprofit, and community-based 30170
organizations; and regional offices of the department. 30171

Sec. 3701.772. (A) The department of health may establish a 30172
program to award grants to educate and train physicians, health 30173
professionals, and other service providers on the most current, 30174
accurate scientific and medical information on lupus diagnosis, 30175
treatment, and therapeutic decision-making, including medical best 30176
practices for detecting and treating the disease in special 30177
populations, risks and benefits of medications, and research 30178
advances. If a program to award grants is established, the 30179
department shall allocate the total amount available for the 30180
grants in amounts that are proportionate to the populations of the 30181
areas served by the Ohio chapters of the lupus foundation of 30182
America, inc. 30183

To be eligible for a grant, an applicant must be affiliated 30184
with the foundation. 30185

(B) Each grant recipient shall do all of the following: 30186

(1) Develop health professional educational materials that 30187
identify the latest scientific and medical information and 30188
clinical applications; 30189

(2) Work to increase knowledge among physicians, nurses, and 30190
other health and human services professionals about the importance 30191
of lupus diagnosis, treatment, and rehabilitation; 30192

(3) Use available curricula for training of health and human 30193
services providers and community leaders on lupus detection and 30194
treatment; 30195

(4) Support continuing medical education programs in all 30196
geographical areas of the state presented by the leading state 30197
academic institutions by providing the most current information; 30198

(5) Provide workshops and seminars for in-depth professional 30199
development in the field of care and management of lupus patients 30200
to bring the latest information on clinical advances to health 30201

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|--|---|
| <u>care providers;</u> | 30202 |
| <u>(6) Conduct statewide conferences on lupus at appropriate intervals;</u> | 30203 30204 |
| <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> | 30205 30206 30207 |
| <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> | 30208 30209 30210 30211 30212 30213 30214 30215 30216 |
| <u>(B) The council shall do all of the following:</u> | 30217 |
| <u>(1) Provide oversight to the lupus education and awareness program, as well as other lupus programs conducted by the department;</u> | 30218 30219 30220 |
| <u>(2) Develop and issue grant applications and policies and procedures for programs aimed at health professionals and the public;</u> | 30221 30222 30223 |
| <u>(3) Establish a mechanism for sharing information on lupus among all officials and employees involved in carrying out lupus-related programs;</u> | 30224 30225 30226 |
| <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> | 30227 30228 30229 30230 |
| <u>(5) Prepare an annual report that describes educational</u> | 30231 |

initiatives on lupus sponsored by the state and make 30232
recommendations for new educational initiatives on lupus. The 30233
report shall be transmitted to the general assembly and be made 30234
available to the public. 30235

Sec. 3701.774. (A) If the department of health establishes 30236
the advisory panel as permitted by division (B)(3) of section 30237
3701.77 of the Revised Code, the department shall coordinate the 30238
panel to provide input and counsel regarding the lupus education 30239
and awareness program. 30240

(B) If the panel is established, all of the following apply: 30241

(1) Individuals and organizations may submit to the 30242
department nominations for appointments to the panel. Each panel 30243
member shall have familiarity with lupus and issues that surround 30244
lupus. 30245

(2) The panel shall be comprised of the following members to 30246
be appointed by the director of health: 30247

(a) At least three individuals with lupus; 30248

(b) Not more than two representatives from the department; 30249

(c) At least five individuals from lupus nonprofit health 30250
organizations, with preference given to individuals from the lupus 30251
foundation of America, inc.; 30252

(d) At least five scientists or clinicians with experience in 30253
lupus who participate in various fields of scientific endeavor, 30254
including the fields of biomedical research, social, 30255
translational, behavioral and epidemiological research, and public 30256
health. 30257

(3) The department shall select from among the panel members 30258
one member to serve as chairperson of the panel. 30259

Members of the panel shall serve terms of two years each. 30260

Members may be named to serve a total of two terms and terms may 30261
be consecutive. 30262

A majority of the members of the panel constitutes a quorum. 30263
A majority vote of a quorum is required for any official action of 30264
the panel. 30265

The panel shall meet at the call of the panel chairperson, 30266
but not fewer than four times per year. 30267

All members shall serve without compensation, but may be 30268
reimbursed for actual, necessary expenses incurred in the 30269
performance of their duties. 30270

(4) The panel shall be responsible for advising the 30271
department and the intergovernmental council with respect to the 30272
implementation of the lupus education and awareness program. The 30273
department shall consult with the advisory panel on a regular 30274
basis. 30275

Sec. 3701.775. There is hereby created in the state treasury 30276
the lupus education and awareness program fund. If the department 30277
of health establishes the lupus education and awareness program, 30278
as authorized under section 3701.77 of the Revised Code, all 30279
moneys accepted under division (C) of that section shall be 30280
credited to the fund. Money in the fund shall be used solely to 30281
administer the lupus education and awareness program. 30282

Sec. 3701.87. The governor may authorize the department of 30283
health to enter into an agreement on behalf of the state with the 30284
United States secretary of health, ~~education,~~ and ~~welfare~~ human 30285
services whereby the department may serve as the agency for review 30286
of proposed capital expenditures by health care facilities 30287
pursuant to section 1122 of the "Social Security Act" as amended 30288
by Public Law 92-603, 42 U.S.C. 1320a-1, and the regulations 30289
adopted thereunder. Such agreement shall be subject to and include 30290

the following terms and conditions: 30291

(A) All applications, notices, requests for information, and 30292
other official communications shall be on written forms prescribed 30293
by and approved by the director of health ~~and approved by the~~ 30294
~~public health council.~~ 30295

(B) The ~~council~~ director, subject to Chapter 119. of the 30296
Revised Code, shall propose, modify, amend, and adopt rules, 30297
standards, guidelines, and official policies which are consistent 30298
with federal law, as it deems necessary to implement the capital 30299
expenditures review program. 30300

(C) The director shall make all findings and recommendations 30301
required by federal law and shall give due consideration to the 30302
findings, reviews, and comments of areawide health planning 30303
agencies performing reviews pursuant to section 314 (b)(2) of the 30304
"Public Health Service Act," 42 U.S.C. 246, or the appropriate 30305
health systems agency. 30306

(D) The findings and recommendations of the director shall be 30307
in writing and shall clearly specify the provisions of the state 30308
health facilities plan with which any application is found to be 30309
inconsistent. Any applicant adversely affected by the findings and 30310
recommendations of the director may request a hearing before the 30311
~~council~~ director pursuant to Chapter 119. of the Revised Code. The 30312
findings and recommendations of the ~~council~~ director are an 30313
adjudication as defined in Chapter 119. of the Revised Code and 30314
may be appealed as provided in that chapter. 30315

Sec. 3701.881. (A) As used in this section: 30316

(1) "Applicant" means ~~both of the following:~~ 30317

~~(a) A a person who is under final consideration for~~ 30318
~~appointment to or employment with a home health agency in a~~ 30319
~~position as a person responsible for the care, custody, or control~~ 30320

of a child; 30321

~~(b) A person who is under final consideration for employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an elder adult individual or is referred to a home health agency by an employment service for such a position. With regard to persons providing direct care to older adults, "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.~~ 30322
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(2) "Criminal records check" ~~and "elder adult" have~~ has the same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 30331
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(3) "Direct care" means any of the following: 30333

(a) Any service identified in divisions (A)(6)(a) to (f) of this section that is provided in a patient's place of residence used as the patient's home; 30334
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(b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient; 30337
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(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care. 30341
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(4) "Disqualifying offense" means any of the following: 30344

(a) One or more violations 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, 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, 30345
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| <u>2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22,</u> | 30351 |
| <u>2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13,</u> | 30352 |
| <u>2913.02, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32,</u> | 30353 |
| <u>2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45,</u> | 30354 |
| <u>2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02,</u> | 30355 |
| <u>2917.03, 2917.12, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22,</u> | 30356 |
| <u>2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21,</u> | 30357 |
| <u>2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12,</u> | 30358 |
| <u>2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32,</u> | 30359 |
| <u>2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06,</u> | 30360 |
| <u>2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36,</u> | 30361 |
| <u>2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;</u> | 30362 |
| <u>(b) One or more violations of felonious sexual penetration</u> | 30363 |
| <u>under former section 2907.12 of the Revised Code;</u> | 30364 |
| <u>(c) One or more violations of section 2905.04 of the Revised</u> | 30365 |
| <u>Code as it existed prior to July 1, 1996;</u> | 30366 |
| <u>(d) One violation of section 2925.11 of the Revised Code when</u> | 30367 |
| <u>the violation is not a minor drug possession offense;</u> | 30368 |
| <u>(e) Two or more violations of section 2925.11 of the Revised</u> | 30369 |
| <u>Code, regardless of whether any of the violations are a minor drug</u> | 30370 |
| <u>possession offense;</u> | 30371 |
| <u>(f) One or more violations of section 2923.01, 2923.02, or</u> | 30372 |
| <u>2923.03 of the Revised Code when the underlying offense that is</u> | 30373 |
| <u>the object of the conspiracy, attempt, or complicity is one of the</u> | 30374 |
| <u>offenses listed in divisions (A)(3)(a) to (e) of this section;</u> | 30375 |
| <u>(g) One or more violations of an existing or former municipal</u> | 30376 |
| <u>ordinance or law of this state, any other state, or the United</u> | 30377 |
| <u>States that is substantially equivalent to any of the offenses</u> | 30378 |
| <u>listed in divisions (A)(3)(a) to (f) of this section.</u> | 30379 |
| <u>(5) "Employee" means a person employed by a home health</u> | 30380 |
| <u>agency in a full-time, part-time, or temporary position that</u> | 30381 |

involves providing direct care to an individual and a person who 30382
works in such a position due to being referred to a home health 30383
agency by an employment service. 30384

(6) "Home health agency" means a person or government entity, 30385
other than a nursing home, residential care facility, or hospice 30386
care program, that has the primary function of providing any of 30387
the following services to a patient at a place of residence used 30388
as the patient's home: 30389

(a) Skilled nursing care; 30390

(b) Physical therapy; 30391

(c) Speech-language pathology; 30392

(d) Occupational therapy; 30393

(e) Medical social services; 30394

(f) Home health aide services. 30395

~~(4)~~(7) "Home health aide services" means any of the following 30396
services provided by an ~~individual employed with or contracted for~~ 30397
~~by~~ employee of a home health agency: 30398

(a) Hands-on bathing or assistance with a tub bath or shower; 30399

(b) Assistance with dressing, ambulation, and toileting; 30400

(c) Catheter care but not insertion; 30401

(d) Meal preparation and feeding. 30402

~~(5)~~(8) "Hospice care program" has the same meaning as in 30403
section 3712.01 of the Revised Code. 30404

~~(6)~~(9) "Medical social services" means services provided by a 30405
social worker under the direction of a patient's attending 30406
physician. 30407

~~(7)~~(10) "Minor drug possession offense" has the same meaning 30408
as in section 2925.01 of the Revised Code. 30409

~~(8)~~(11) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code. 30410
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~~(9)~~(12) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code. 30413
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~~(10)~~(13) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code. 30415
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~~(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. 30417
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~~(12)~~(15) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code. 30420
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(B) 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: 30422
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(1) A review of the databases listed in division (D) of this section reveals any of the following: 30426
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(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; 30428
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(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; 30431
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(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 home health agency from 30437
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employing an applicant or continuing to employ an employee 30440
included in such a database in a position that involves providing 30441
direct care to an individual. 30442

(2) After the applicant or employee is provided, pursuant to 30443
division (E)(2)(a) of this section, a copy of the form prescribed 30444
pursuant to division (C)(1) of section 109.572 of the Revised Code 30445
and the standard impression sheet prescribed pursuant to division 30446
(C)(2) of that section, the applicant or employee fails to 30447
complete the form or provide the applicant's or employee's 30448
fingerprint impressions on the standard impression sheet. 30449

(3) Except as provided in rules adopted under this section, 30450
the applicant or employee is found by a criminal records check 30451
required by this section to have been convicted of, pleaded guilty 30452
to, or been found eligible for intervention in lieu of conviction 30453
for a disqualifying offense. 30454

(C) Except as provided by division (F) of this section, the 30455
chief administrator of a home health agency shall inform each 30456
applicant of both of the following at the time of the applicant's 30457
initial application for employment or referral to the home health 30458
agency by an employment service for a position that involves 30459
providing direct care to an individual: 30460

(1) That a review of the databases listed in division (D) of 30461
this section will be conducted to determine whether the home 30462
health agency is prohibited by division (B)(1) of this section 30463
from employing the applicant in the position; 30464

(2) That, unless the database review reveals that the 30465
applicant may not be employed in the position, a criminal records 30466
check of the applicant will be conducted and the applicant is 30467
required to provide a set of the applicant's fingerprint 30468
impressions as part of the criminal records check. 30469

(D) As a condition of employing any applicant in a position 30470

that involves providing direct care to an individual, the chief administrator of a home health agency shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a home health agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to conduct a database review of an applicant or employee if division (F) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended;

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted

under this section. 30502

~~(E)(1) Except as provided in division (I) of this section~~ 30503
As a condition of employing any applicant in a position that involves 30504
providing direct care to an individual, the chief administrator of 30505
a home health agency shall request the superintendent of the 30506
bureau of criminal identification and investigation to conduct a 30507
criminal records check ~~with respect to each of the~~ applicant. ~~If~~ 30508
~~the position may involve both responsibility for the care,~~ 30509
~~eustody, or control of a child and provision of direct care to an~~ 30510
~~elder adult, the chief administrator shall request that the~~ 30511
~~superintendent conduct a single criminal records check for the~~ 30512
~~applicant.~~ If rules adopted under this section so require, the 30513
chief administrator of a home health agency shall request the 30514
superintendent to conduct a criminal records check of an employee 30515
at times specified in the rules as a condition of continuing to 30516
employ the employee in a position that involves providing direct 30517
care to an individual. However, the chief administrator is not 30518
required to request the criminal records check of the applicant or 30519
the employee if division (F) of this section applies or the home 30520
health agency is prohibited by division (B)(1) of this section 30521
from employing the applicant or continuing to employ the employee 30522
in a position that involves providing direct care to an 30523
individual. If an applicant or employee for whom a criminal 30524
records check request is required ~~under~~ by this division section 30525
does not present proof of having been a resident of this state for 30526
the five-year period immediately prior to the date upon which the 30527
criminal records check is requested or does not provide evidence 30528
that within that five-year period the superintendent has requested 30529
information about the applicant from the federal bureau of 30530
investigation in a criminal records check, the chief administrator 30531
shall request that the superintendent obtain information from the 30532
federal bureau of investigation as a part of the criminal records 30533
check ~~for the applicant.~~ Even if an applicant or employee for whom 30534

a criminal records check request is required ~~under~~ by this 30535
~~division section~~ presents proof that the applicant or employee has 30536
been a resident of this state for that five-year period, the chief 30537
administrator may request that the superintendent include 30538
information from the federal bureau of investigation in the 30539
criminal records check. 30540

(2) ~~Any person required by division (B)(1) of this section to~~ 30541
~~request a criminal records check~~ The chief administrator shall 30542
provide do all of the following: 30543

(a) Provide to each applicant and employee for whom a 30544
criminal records check request is required ~~under that division by~~ 30545
this section a copy of the form prescribed pursuant to division 30546
(C)(1) of section 109.572 of the Revised Code and a standard 30547
impression sheet prescribed pursuant to division (C)(2) of that 30548
~~section 109.572 of the Revised Code, obtain;~~ 30549

(b) Obtain the completed form and standard impression sheet 30550
from each applicant, ~~and forward~~ employee; 30551

(c) Forward the completed form and standard impression sheet 30552
to the superintendent ~~of the bureau of criminal identification and~~ 30553
~~investigation~~ at the time the chief administrator requests a the 30554
criminal records check ~~pursuant to division (B)(1) of this~~ 30555
~~section.~~ 30556

(3) ~~An applicant who receives pursuant to division (B)(2) of~~ 30557
~~this section a copy of the form prescribed pursuant to division~~ 30558
~~(C)(1) of section 109.572 of the Revised Code and a copy of an~~ 30559
~~impression sheet prescribed pursuant to division (C)(2) of that~~ 30560
~~section and who is requested to complete the form and provide a~~ 30561
~~set of fingerprint impressions shall complete the form or provide~~ 30562
~~all the information necessary to complete the form and shall~~ 30563
~~provide the impression sheets with the impressions of the~~ 30564
~~applicant's fingerprints. If an applicant, upon request, fails to~~ 30565

~~provide the information necessary to complete the form or fails to 30566
provide fingerprint impressions, the home health agency shall not 30567
employ that applicant for any position for which a criminal 30568
records check is required by division (B)(1) of this section. 30569~~

~~(C)(1) Except as provided in rules adopted by the department 30570
of health in accordance with division (F) of this section and 30571
subject to division (C)(3) of this section, no home health agency 30572
shall employ a person as a person responsible for the care, 30573
custody, or control of a child if the person previously has been 30574
convicted of or pleaded guilty to any of the following: 30575~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 30576
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 30577
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 30578
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 30579
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 30580
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 30581
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 30582
2925.06, or 3716.11 of the Revised Code, a violation of section 30583
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 30584
violation of section 2919.23 of the Revised Code that would have 30585
been a violation of section 2905.04 of the Revised Code as it 30586
existed prior to July 1, 1996, had the violation been committed 30587
prior to that date, a violation of section 2925.11 of the Revised 30588
Code that is not a minor drug possession offense, or felonious 30589
sexual penetration in violation of former section 2907.12 of the 30590
Revised Code; 30591~~

~~(b) A violation of an existing or former law of this state, 30592
any other state, or the United States that is substantially 30593
equivalent to any of the offenses listed in division (C)(1)(a) of 30594
this section. 30595~~

~~(2) Except as provided in rules adopted by the department of 30596
health in accordance with division (F) of this section and subject 30597~~

~~to division (C)(3) of this section, no home health agency shall 30598
employ a person in a position that involves providing direct care 30599
to an older adult if the person previously has been convicted of 30600
or pleaded guilty to any of the following: 30601~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 30602
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 30603
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 30604
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 30605
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 30606
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 30607
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 30608
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 30609
2925.22, 2925.23, or 3716.11 of the Revised Code. 30610~~

~~(b) A violation of an existing or former law of this state, 30611
any other state, or the United States that is substantially 30612
equivalent to any of the offenses listed in division (C)(2)(a) of 30613
this section. 30614~~

~~(3)(a) A home health agency shall pay to the bureau of 30615
criminal identification and investigation the fee prescribed 30616
pursuant to division (C)(3) of section 109.572 of the Revised Code 30617
for each criminal records check the agency requests under this 30618
section. A home health agency may charge an applicant a fee not 30619
exceeding the amount the agency pays to the bureau under this 30620
section if both of the following apply: 30621~~

~~(a) The home health agency notifies the applicant at the time 30622
of initial application for employment of the amount of the fee and 30623
that, unless the fee is paid, the applicant will not be considered 30624
for employment. 30625~~

~~(b) The medicaid program established under Chapter 5111. of 30626
the Revised Code does not reimburse the home health agency for the 30627
fee it pays to the bureau under this section. 30628~~

(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: 30629
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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. 30635
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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: 30639
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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; 30644
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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. 30646
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(G)(1) A home health agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of by this section as a person responsible for the care, custody, or control of a child until the criminal records check regarding the applicant required by this section is completed and the agency receives before obtaining the results of the criminal records check if the agency is not prohibited by division (B) of this section from employing the applicant in a position that involves providing direct care to an individual and either of the following applies: 30649
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(a) The chief administrator of the home health agency 30659

requests the criminal records check in accordance with division 30660
(E) of this section not later than five business days after the 30661
applicant begins conditional employment. 30662

(b) The applicant is referred to the home health agency by an 30663
employment service, the employment service or the applicant 30664
provides the chief administrator of the agency a letter that is on 30665
the letterhead of the employment service, the letter is dated and 30666
signed by a supervisor or another designated official of the 30667
employment service, and the letter states all of the following: 30668

(i) That the employment service has requested the 30669
superintendent to conduct a criminal records check regarding the 30670
applicant; 30671

(ii) That the requested criminal records check is to include 30672
a determination of whether the applicant has been convicted of, 30673
pleaded guilty to, or been found eligible for intervention in lieu 30674
of conviction for a disqualifying offense; 30675

(iii) That the employment service has not received the 30676
results of the criminal records check as of the date set forth on 30677
the letter; 30678

(iv) That the employment service promptly will send a copy of 30679
the results of the criminal records check to the chief 30680
administrator of the home health agency when the employment 30681
service receives the results. 30682

(2) If a home health agency employs an applicant 30683
conditionally pursuant to division (G)(1)(b) of this section, the 30684
employment service, on its receipt of the results of the criminal 30685
records check, promptly shall send a copy of the results to the 30686
chief administrator of the agency. If the results of the criminal 30687
records check indicate that, pursuant to division (C)(1) of this 30688
section, the applicant does not qualify for employment, the agency 30689
shall release the applicant from employment unless the agency 30690

~~chooses to employ the applicant pursuant to division (F) of this section.~~ 30691
30692

~~(b)(i) A home health agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section in a position that involves providing direct care to an older adult or in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults prior to obtaining the results of a criminal records check regarding the individual, provided that the agency 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 health agency may employ conditionally in a position that involves providing direct care to an older adult an applicant who has been referred to the home health agency 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 check is not required under division (B) of this section. In the circumstances described in division (I)(4) of this section, a home health agency may employ conditionally in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults an applicant who has been referred to the home health 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 for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.~~ 30693
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~~(ii)(3) A home health agency that employs an individual~~ 30722

~~applicant conditionally under authority of pursuant to~~ division 30723
~~(C)(3)(b)(i)(G)(1)(a) or (b)~~ of this section shall terminate the 30724
~~individual's applicant's~~ employment if the results of the criminal 30725
records check ~~requested under division (B)(1) of this section or~~ 30726
~~described in division (I)(2) or (4) of this section,~~ other than 30727
the results of any request for information from the federal bureau 30728
of investigation, are not obtained within the period ending thirty 30729
days after the date the request for the criminal records check is 30730
made. Regardless of when the results of the criminal records check 30731
are obtained, if the ~~individual was employed conditionally in a~~ 30732
~~position that involves the provision of direct care to older~~ 30733
~~adults and the results indicate that the individual applicant~~ has 30734
been convicted of ~~or~~, pleaded guilty to ~~any of the offenses listed~~ 30735
~~or described in division (C)(2) of this section, or if the~~ 30736
~~individual was employed conditionally in a position that involves~~ 30737
~~both responsibility for the care, custody, and control of a child~~ 30738
~~and the provision of direct care to older adults and the results~~ 30739
~~indicate that the individual has been convicted of or pleaded~~ 30740
~~guilty to any of the offenses listed or described in division~~ 30741
~~(C)(1) or (2) of this section, or been found eligible for~~ 30742
intervention in lieu of conviction for a disqualifying offense, 30743
the home health agency shall terminate the ~~individual's~~ 30744
~~applicant's~~ employment unless circumstances specified in rules 30745
adopted under this section that permit the agency to employ the 30746
applicant exist and the agency chooses to employ the ~~individual~~ 30747
~~pursuant to division (F) of this section applicant.~~ Termination of 30748
employment under this division shall be considered just cause for 30749
discharge for purposes of division (D)(2) of section 4141.29 of 30750
the Revised Code if the ~~individual applicant~~ makes any attempt to 30751
deceive the home health agency about the ~~individual's applicant's~~ 30752
criminal record. 30753

~~(D)(1) Each home health agency shall pay to the bureau of~~ 30754
~~criminal identification and investigation the fee prescribed~~ 30755

~~pursuant to division (C)(3) of section 109.572 of the Revised Code 30756
for each criminal records check conducted in accordance with that 30757
section upon the request pursuant to division (B)(1) of this 30758
section of the chief administrator of the home health agency. 30759~~

~~(2) A home health agency may charge an applicant a fee for 30760
the costs it incurs in obtaining a criminal records check under 30761
this section, unless the medical assistance program established 30762
under Chapter 5111. of the Revised Code reimburses the agency for 30763
the costs. A fee charged under division (D)(2) of this section 30764
shall not exceed the amount of fees the agency pays under division 30765
(D)(1) of this section. If a fee is charged under division (D)(2) 30766
of this section, the agency shall notify the applicant at the time 30767
of the applicant's initial application for employment of the 30768
amount of the fee and that, unless the fee is paid, the agency 30769
will not consider the applicant for employment. 30770~~

~~(E)(H) The report of any criminal records check conducted by 30771
the bureau of criminal identification and investigation in 30772
accordance with section 109.572 of the Revised Code and pursuant 30773
to a request made under division (B)(1) of this section is not a 30774
public record for the purposes of section 149.43 of the Revised 30775
Code and shall not be made available to any person other than the 30776
following: 30777~~

~~(1) The individual applicant or employee who is the subject 30778
of the criminal records check or the individual's applicant's or 30779
employee's representative; 30780~~

~~(2) The home health agency requesting the criminal records 30781
check or its representative; 30782~~

~~(3) The administrator of any other facility, agency, or 30783
program that provides direct care to ~~elder adults~~ individuals that 30784
is owned or operated by the same entity that owns or operates the 30785
home health agency that requested the criminal records check; 30786~~

(4) The employment service that requested the criminal records check; 30787
30788

(5) Any court, hearing officer, or other necessary individual 30789
involved in a case dealing with ~~a~~ any of the following: 30790

(a) A denial of employment of the applicant or 30791
~~dealing with~~
employment employee; 30792

(b) Employment or unemployment benefits of the applicant or 30793
employee; 30794

~~(5) Any person to whom the report is provided pursuant to,~~ 30795
~~and in accordance with, division (I)(1), (2), (3), or (4) of this~~ 30796
~~section~~ (c) A civil or criminal action regarding the medicaid 30797
program. 30798

~~(F) The department of health shall adopt rules in accordance~~ 30799
~~with Chapter 119. of the Revised Code to implement this section.~~ 30800
The rules shall specify circumstances under which the home health 30801
agency may employ a person who has been convicted of or pleaded 30802
guilty to an offense listed or described in division (C)(1) of 30803
this section but who meets standards in regard to rehabilitation 30804
set by the department or employ a person who has been convicted of 30805
or pleaded guilty to an offense listed or described in division 30806
(C)(2) of this section but meets personal character standards set 30807
by the department. 30808

~~(G) Any person required by division (B)(1) of this section to~~ 30809
~~request a criminal records check shall inform each person, at the~~ 30810
~~time of initial application for employment that the person is~~ 30811
~~required to provide a set of fingerprint impressions and that a~~ 30812
~~criminal records check is required to be conducted and~~ 30813
~~satisfactorily completed in accordance with section 109.572 of the~~ 30814
~~Revised Code if the person comes under final consideration for~~ 30815
~~appointment or employment as a precondition to employment for that~~ 30816
~~position.~~ 30817

~~(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 ~~ex~~, 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 elder adults if the applicant has been~~

~~referred to the agency by an employment service that supplies 30850
full time, part time, or temporary staff for positions involving 30851
the direct care of older adults and both of the following apply: 30852~~

~~(a) The chief administrator receives from the employment 30853
service or the applicant a report of the results of a criminal 30854
records check regarding the applicant that has been conducted by 30855
the superintendent within the one year period immediately 30856
preceding the applicant's referral; 30857~~

~~(b) The report of the criminal records check demonstrates 30858
that the person has not been convicted of or pleaded guilty to an 30859
offense listed or described in division (C)(2) of this section, or 30860
the report demonstrates that the person has been convicted of or 30861
pleaded guilty to one or more of those offenses, but the home 30862
health agency chooses to employ the individual pursuant to 30863
division (F) of this section. 30864~~

~~(2) The chief administrator of a home health agency is not 30865
required to request that the superintendent of the bureau of 30866
criminal identification and investigation conduct a criminal 30867
records check of an applicant for a position that involves 30868
providing direct care to older adults and may employ the applicant 30869
conditionally in a position of that nature as described in this 30870
division, if the applicant has been referred to the agency by an 30871
employment service that supplies full time, part time, or 30872
temporary staff for positions involving the direct care of older 30873
adults and if the chief administrator receives from the employment 30874
service or the applicant a letter from the employment service that 30875
is on the letterhead of the employment service, dated, and signed 30876
by a supervisor or another designated official of the employment 30877
service and that states that the employment service has requested 30878
the superintendent to conduct a criminal records check regarding 30879
the applicant, that the requested criminal records check will 30880
include a determination of whether the applicant has been 30881~~

~~convicted of or pleaded guilty to any offense listed or described 30882
in division (C)(2) of this section, that, as of the date set forth 30883
on the letter, the employment service had not received the results 30884
of the criminal records check, and that, when the employment 30885
service receives the results of the criminal records check, it 30886
promptly will send a copy of the results to the home health 30887
agency. If a home health agency employs an applicant conditionally 30888
in accordance with this division, the employment service, upon its 30889
receipt of the results of the criminal records check, promptly 30890
shall send a copy of the results to the home health agency, and 30891
division (C)(3)(b) of this section applies regarding the 30892
conditional employment. 30893~~

~~(3) The chief administrator of a home health agency is not 30894
required to request that the superintendent of the bureau of 30895
criminal identification and investigation conduct a criminal 30896
records check of an applicant for a position that involves both 30897
responsibility for the care, custody, and control of a child and 30898
the provision of direct care to older adults if the applicant has 30899
been referred to the agency by an employment service that supplies 30900
full time, part time, or temporary staff for positions involving 30901
both responsibility for the care, custody, and control of a child 30902
and the provision of direct care to older adults and both of the 30903
following apply: 30904~~

~~(a) The chief administrator receives from the employment 30905
service or applicant a report of a criminal records check of the 30906
type described in division (I)(1)(a) of this section; 30907~~

~~(b) The report of the criminal records check demonstrates 30908
that the person has not been convicted of or pleaded guilty to an 30909
offense listed or described in division (C)(1) or (2) of this 30910
section, or the report demonstrates that the person has been 30911
convicted of or pleaded guilty to one or more of those offenses, 30912
but the home health agency chooses to employ the individual 30913~~

~~pursuant to division (F) of this section. 30914~~

~~(4) The chief administrator of a home health agency is not 30915~~
~~required to request that the superintendent of the bureau of 30916~~
~~criminal identification and investigation conduct a criminal 30917~~
~~records check of an applicant for a position that involves both 30918~~
~~responsibility for the care, custody, and control of a child and 30919~~
~~the provision of direct care to older adults and may employ the 30920~~
~~applicant conditionally in a position of that nature as described 30921~~
~~in this division, if the applicant has been referred to the agency 30922~~
~~by an employment service that supplies full time, part time, or 30923~~
~~temporary staff for positions involving both responsibility for 30924~~
~~the care, custody, and control of a child and the direct care of 30925~~
~~older adults and if the chief administrator receives from the 30926~~
~~employment service or the applicant a letter from the employment 30927~~
~~service that is on the letterhead of the employment service, 30928~~
~~dated, and signed by a supervisor or another designated official 30929~~
~~of the employment service and that states that the employment 30930~~
~~service has requested the superintendent to conduct a criminal 30931~~
~~records check regarding the applicant, that the requested criminal 30932~~
~~records check will include a determination of whether the 30933~~
~~applicant has been convicted of or pleaded guilty to any offense 30934~~
~~listed or described in division (C)(1) or (2) of this section, 30935~~
~~that, as of the date set forth on the letter, the employment 30936~~
~~service had not received the results of the criminal records 30937~~
~~check, and that, when the employment service receives the results 30938~~
~~of the criminal records check, it promptly will send a copy of the 30939~~
~~results to the home health agency. If a home health agency employs 30940~~
~~an applicant conditionally in accordance with this division, the 30941~~
~~employment service, upon its receipt of the results of the 30942~~
~~criminal records check, promptly shall send a copy of the results 30943~~
~~to the home health agency, and division (C)(3)(b) of this section 30944~~
~~applies regarding the conditional employment. 30945~~

(J) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. 30946
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(1) The rules may do the following: 30948

(a) Require employees to undergo database reviews and criminal records checks under this section; 30949
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(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements; 30951
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(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section. 30954
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(2) The rules shall specify all of the following: 30957

(a) The procedures for conducting database reviews under this section; 30958
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(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; 30960
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(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a home health agency is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases; 30964
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(d) Circumstances under which a home health agency may employ an applicant or employee who 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 but meets personal character standards. 30969
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| <u>Sec. 185.01 3701.92.</u> As used in this chapter <u>sections</u> | 30975 |
| <u>3701.921 to 3701.929 of the Revised Code:</u> | 30976 |
| (A) "Advanced practice nurse" has the same meaning as in section 4723.01 of the Revised Code. | 30977 30978 |
| (B) "Collaboration" has the same meaning as in section 4723.01 of the Revised Code. | 30979 30980 |
| (C) "Patient centered medical home education advisory group" means the entity established under section 185.03 3701.924 of the Revised Code to implement and administer the patient centered medical home education pilot project. | 30981 30982 30983 30984 |
| (D) <u>"Patient centered medical home education program" means the program established under section 3701.921 of the Revised Code and any pilot projects operated pursuant to that section.</u> | 30985 30986 30987 |
| <u>(E) "Patient centered medical home education pilot project" means the pilot project established under section 185.02 3701.923 of the Revised Code.</u> | 30988 30989 30990 |
| <u>(F) "Physician assistant" has the same meaning as in section 4730.01 of the Revised Code.</u> | 30991 30992 |
| <u>Sec. 3701.921.</u> There is hereby established the patient centered medical home education program in the department of health. For the purpose of advancing education in the patient centered medical home model of care, the director of health may implement and administer the program pursuant to sections 3701.922 to 3701.929 of the Revised Code. The patient centered medical home model of care is an enhanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive and coordinate patient centered care. | 30993 30994 30995 30996 30997 30998 30999 31000 31001 |
| <u>To the extent that funds are available, the program shall include the patient centered medical home education pilot project</u> | 31002 31003 |

and may include any other pilot projects the director establishes 31004
pursuant to division (A)(3) of section 3701.922 of the Revised 31005
Code. 31006

Sec. 3701.922. (A) The director of health may do any of the 31007
following to implement and administer the patient centered medical 31008
home education program: 31009

(1) Develop and implement programs of education or training 31010
on the patient centered medical home model of care or other 31011
similar enhanced models of coordinated patient centered care that 31012
are intended to address the multifaceted needs of patients and 31013
provide whole person comprehensive and coordinated patient 31014
centered care; 31015

(2) Advise, consult, cooperate with, and assist, by contract 31016
or other arrangement, government agencies or institutions or 31017
private organizations, corporations, or associations in the 31018
development and promotion of programs pertaining to the evaluation 31019
and implementation of the patient centered medical home model of 31020
care or other similar enhanced models of coordinated patient 31021
centered care; 31022

(3) Establish pilot projects that do any of the following: 31023

(a) Evaluate or implement the patient centered medical home 31024
model of care or other similar enhanced models of coordinated 31025
patient centered care; 31026

(b) Provide education or training on the patient centered 31027
medical home model of care or other similar enhanced models of 31028
coordinated patient centered care. 31029

(4) Seek and administer state funds or grants from other 31030
sources to carry out any functions of the patient centered medical 31031
home education program. 31032

Any funds or grants received by the director for purposes of 31033

the program shall be used for the program. 31034

(B) The director may adopt rules as necessary to implement 31035
and administer the patient centered medical home education 31036
program, including rules that define what constitutes a "patient 31037
centered medical home" for purposes of an entity authorized to 31038
provide care coordination services. The rules shall be adopted in 31039
accordance with Chapter 119. of the Revised Code. 31040

~~Sec. 185.02 3701.923. (A) There is hereby established the 31041~~
~~patient centered medical home education pilot project. The pilot 31042~~
~~project shall be implemented and administered by the patient 31043~~
~~centered medical home education advisory group.~~ 31044

~~(B) The pilot project shall be operated to advance medical 31045~~
~~education in the patient centered medical home model of care. The 31046~~
~~patient centered medical home model of care is an enhanced model 31047~~
~~of primary care in which care teams attend to the multifaceted 31048~~
~~needs of patients, providing whole person comprehensive and 31049~~
~~coordinated patient centered care.~~ 31050

~~(C) To the extent that funds are available, the director of 31051~~
~~health shall establish the patient centered medical home education 31052~~
~~pilot project. If the director establishes the project, all of the 31053~~
~~following apply:~~ 31054

~~(1) The director shall select practices led by physicians and 31055~~
~~primary care practices led by advanced practice nurses to 31056~~
~~participate in the project. The director may consider the 31057~~
~~recommendations of the advisory group made in accordance with 31058~~
~~section 3701.925 of the Revised Code, but may not select a 31059~~
~~practice unless the practice complies with any applicable 31060~~
~~requirements under section 3701.926 of the Revised Code.~~ 31061

~~(2) The director shall conduct the project in a manner that 31062~~
~~advances education in the patient centered medical home model of 31063~~

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| <u>care.</u> | 31064 |
| <u>(3) The director shall evaluate all of the following:</u> | 31065 |
| <u>(a) Learning opportunities generated by the project;</u> | 31066 |
| <u>(b) Training of physicians and advanced practice nurses under the project;</u> | 31067 31068 |
| <u>(c) Costs of the project;</u> | 31069 |
| <u>(d) The extent to which the project met the expected outcomes developed under division (A) of section 3701.924 of the Revised Code.</u> | 31070 31071 31072 |
| <u>(4) The director shall assess and review results of the project.</u> | 31073 31074 |
| <u>(5) The director shall recommend best practices and opportunities for improving technology, education, comprehensive training, consultation, and technical assistance for health care service providers in the patient centered medical home model of care.</u> | 31075 31076 31077 31078 31079 |
| <u>(B) The director may contract with an entity that has significant experience in assisting physician-led practices and advanced practice nurse-led primary care practices in transitioning to the patient centered medical home model of care. The contract shall require the entity to do both of the following:</u> | 31080 31081 31082 31083 31084 |
| <u>(1) Provide, to each practice that enters into a contract 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;</u> | 31085 31086 31087 31088 31089 31090 |
| <u>(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</u> | 31091 31092 31093 |

model of care. 31094

(C) The project established under this section shall begin 31095
not later than the date the first practice enters into a contract 31096
with the director pursuant to section 3701.927 of the Revised Code 31097
and shall cease not later than the date the final report is 31098
submitted pursuant to division (B)(3) of section 3701.929 of the 31099
Revised Code. 31100

(D) The ~~pilot~~ project shall not be operated in a manner that 31101
requires a patient, unless otherwise required by the Revised Code, 31102
to receive a referral from a physician in a practice selected for 31103
inclusion in the pilot project under division (A)(1) of this 31104
section ~~185.05~~ of the Revised Code as a condition of being 31105
authorized to receive specialized health care services from an 31106
individual licensed or certified under Title XLVII of the Revised 31107
Code to provide those services. 31108

Sec. ~~185.03~~ 3701.924. (A) The patient centered medical home 31109
education advisory group is hereby created for the purpose of 31110
~~implementing and administering~~ advising the director of health on 31111
the implementation and administration of the patient centered 31112
medical home ~~pilot project~~ education program. The advisory group 31113
shall develop and provide to the director a set of expected 31114
outcomes for the pilot project. The advisory group shall consider 31115
and provide other recommendations to the director and complete 31116
other duties as the director considers appropriate. 31117

(B) The advisory group shall consist of the following ~~voting~~ 31118
members: 31119

(1) The following members appointed by the director of 31120
health: 31121

~~(1)(a)~~ (a) One individual with expertise in the training and 31122
education of primary care physicians ~~who is appointed~~ recommended 31123

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| by the dean of the university of Toledo college of medicine; | 31124 |
| (2) (b) One individual with expertise in the training and | 31125 |
| education of primary care physicians who is appointed <u>recommended</u> | 31126 |
| by the dean of the Boonshoft school of medicine at Wright state | 31127 |
| university; | 31128 |
| (3) (c) One individual with expertise in the training and | 31129 |
| education of primary care physicians who is appointed <u>recommended</u> | 31130 |
| by the president and dean of the northeast Ohio medical | 31131 |
| university; | 31132 |
| (4) (d) One individual with expertise in the training and | 31133 |
| education of primary care physicians who is appointed <u>recommended</u> | 31134 |
| by the dean of the Ohio university college of osteopathic | 31135 |
| medicine; | 31136 |
| (5) (e) Two individuals appointed <u>recommended</u> by the governing | 31137 |
| board of the Ohio academy of family physicians; | 31138 |
| (6) (f) One individual appointed <u>recommended</u> by the governing | 31139 |
| board of the Ohio chapter of the American college of physicians; | 31140 |
| (7) (g) One individual appointed <u>recommended</u> by the governing | 31141 |
| board of the <u>Ohio chapter of the</u> American academy of pediatrics; | 31142 |
| (8) (h) One individual appointed <u>recommended</u> by the governing | 31143 |
| board of the Ohio osteopathic association; | 31144 |
| (9) (i) One individual with expertise in the training and | 31145 |
| education of advanced practice nurses who is appointed, | 31146 |
| <u>recommended</u> by the governing board of the Ohio council of deans | 31147 |
| and directors of baccalaureate and higher degree programs in | 31148 |
| nursing; | 31149 |
| (10) (j) One individual appointed <u>recommended</u> by the governing | 31150 |
| board of the Ohio nurses association; | 31151 |
| (11) (k) One individual appointed <u>recommended</u> by the governing | 31152 |
| board of the Ohio association of advanced practice nurses; | 31153 |

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| (12)(1) One individual appointed <u>recommended</u> by the governing board of the Ohio council for home care and hospice; | 31154 31155 |
| (13)(m) One individual appointed <u>recommended</u> by the superintendent of insurance; | 31156 31157 |
| <u>(n) An employee of the department of health;</u> | 31158 |
| <u>(o) Not more than five additional members who have relevant expertise that the director considers appropriate.</u> | 31159 31160 |
| (C)(2) The advisory group shall consist of the following nonvoting, ex officio members: | 31161 31162 |
| (1)(a) The executive director of the state medical board, or the director's designee; | 31163 31164 |
| (2)(b) The executive director of the board of nursing or the director's designee; | 31165 31166 |
| (3)(c) The chancellor of the Ohio board of regents, or the chancellor's designee; | 31167 31168 |
| (4)(d) The individual within the department of job and family services who serves as the director of medicaid, or the director's designee; | 31169 31170 31171 |
| (5) The director of health or the director's designee. | 31172 |
| (D) Advisory group members who are appointed shall serve at the pleasure of their appointing authorities. Terms of office of appointed members shall be three years, except that a member's term ends if the pilot project ceases operation during the member's term. | 31173 31174 31175 31176 31177 |
| <u>(C)(1) In making the original appointments of the members specified in divisions (B)(1)(a) to (m) of this section, the director shall appoint the member who served in that capacity in the patient centered medical home advisory group, as it existed immediately prior to the effective date of this section. If for any reason the member who served immediately prior to the</u> | 31178 31179 31180 31181 31182 31183 |

effective date of this section is unable to serve on the advisory group, the director shall request from the specified recommending authority a list of not less than two persons qualified to serve as members of the advisory group. The director shall appoint as a member one person from the list submitted by the recommending authority. 31184
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(2) The advisory group members specified in divisions (B)(1)(a) to (m) of this section shall serve at the pleasure of the director, in consultation with their respective recommending authorities. 31190
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(3) Vacancies shall be filled in the manner provided for original appointments. 31194
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(D) Members shall serve without compensation, except to the extent that serving on the advisory group is considered part of their regular employment duties. 31196
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(E) The advisory group shall select director may appoint from among its the members of the advisory group a chairperson and vice-chairperson. The advisory group may select any other officers it considers necessary to conduct its business. 31199
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A majority of the members of the advisory group constitutes a quorum for the transaction of official business. A majority of a quorum is necessary for the advisory group to take any action, except that when one or more members of a quorum are required to abstain from voting as provided in division (C)(1)(d) or (C)(2)(e) of section 185.05 of the Revised Code, the number of members necessary for a majority of a quorum shall be reduced accordingly make any recommendations to the director. 31203
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The advisory group shall meet as necessary to fulfill its duties. The times and places for the meetings shall be selected by the chairperson at the call of the director. The director shall call the advisory group to meet not less than annually to discuss 31211
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or consider recommendations to the director on the administration 31215
of the patient centered medical home education program. 31216

(F) Sections 101.82 to 101.87 of the Revised Code do not 31217
apply to the advisory group. 31218

Sec. ~~185.05~~ 3701.925. (A) The patient centered medical home 31219
education advisory group shall accept applications for inclusion 31220
in the patient centered medical home education pilot project from 31221
primary care practices with educational affiliations, as 31222
determined by the advisory group, with one or more of the 31223
following: 31224

(1) The Boonshoft school of medicine at Wright state 31225
university; 31226

(2) The university of Toledo college of medicine; 31227

(3) The northeast Ohio medical university; 31228

(4) The Ohio university college of osteopathic medicine; 31229

(5) The college of nursing at the university of Toledo; 31230

(6) The Wright state university college of nursing and 31231
health; 31232

(7) The college of nursing at Kent state university; 31233

(8) The university of Akron college of nursing; 31234

(9) The school of nursing at Ohio university. 31235

(B)(1) Subject to division (C)(1) of this section, the 31236
advisory group shall ~~select~~ recommend to the director of health 31237
for inclusion in the pilot project not ~~more~~ less than the 31238
following number of ~~physician~~ practices led by physicians: 31239

(a) Ten practices affiliated with the Boonshoft school of 31240
medicine at Wright state university; 31241

(b) Ten practices affiliated with the university of Toledo 31242

college of medicine; 31243

(c) Ten practices affiliated with the northeast Ohio medical university; 31244
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(d) Ten practices affiliated with the centers for osteopathic research and education of the Ohio university college of osteopathic medicine. 31246
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(2) Subject to division (C)(2) of this section, the advisory group shall ~~select~~ recommend to the director of health for inclusion in the pilot project not less than the following number of ~~advanced practice nurse~~ primary care practices led by advanced practice nurses: 31249
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(a) One practice affiliated with the college of nursing at the university of Toledo; 31254
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(b) One practice affiliated with the Wright state university college of nursing and health; 31256
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(c) One practice affiliated with the college of nursing at Kent state university or the university of Akron college of nursing; 31258
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(d) One practice affiliated with the school of nursing at Ohio university. 31261
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(C)(1) All of the following apply with respect to the ~~selection~~ recommendation of ~~physician~~ physician-led practices under division (B) of this section: 31263
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(a) The advisory group shall strive to ~~select physician~~ recommend physician-led practices in such a manner that the pilot project includes a diverse range of primary care specialties, including practices specializing in pediatrics, geriatrics, general internal medicine, or family medicine. 31266
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(b) When evaluating an application, the advisory group shall consider the percentage of patients in the ~~physician~~ physician-led 31271
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practice who are part of a medically underserved population, 31273
including medicaid recipients and individuals without health 31274
insurance. 31275

(c) The advisory group shall ~~select~~ recommend not fewer than 31276
six practices that serve rural areas of this state, as those areas 31277
are determined by the advisory group. 31278

(d) A member of the advisory group shall abstain from 31279
participating in any vote taken regarding the ~~selection~~ 31280
recommendation of a ~~physician~~ physician-led practice if the member 31281
would receive any financial benefit from having the practice 31282
included in the pilot project. 31283

(2) All of the following apply with respect to the ~~selection~~ 31284
recommendation of advanced practice ~~nurse~~ nurse-led primary care 31285
practices under division (B) of this section: 31286

(a) When evaluating an application, the advisory group shall 31287
consider the percentage of patients in the advanced practice ~~nurse~~ 31288
nurse-led primary care practice who are part of a medically 31289
underserved population, including medicaid recipients and 31290
individuals without health insurance. 31291

(b) If the advisory group determines that it has not received 31292
an application from a sufficiently qualified advanced practice 31293
~~nurse~~ nurse-led primary care practice affiliated with a particular 31294
institution specified in division (B)(2) of this section, the 31295
advisory group shall make the ~~selections~~ recommendations required 31296
under that division in such a manner that the greatest possible 31297
number of those institutions are ~~represented~~ recommended to be 31298
included in the pilot project. To be ~~selected~~ recommended in this 31299
manner, a practice remains subject to the eligibility requirements 31300
specified in division (B) of section ~~185.06~~ 3701.926 of the 31301
Revised Code. As specified in division (B)(2) of this section, the 31302
number of practices ~~selected~~ recommended for inclusion in the 31303

pilot project shall be at least four. 31304

(c) A member of the advisory group shall abstain from 31305
participating in any vote taken regarding the ~~selection~~ 31306
recommendation of an advanced practice ~~nurse~~ nurse-led primary 31307
care practice if the member would receive any financial benefit 31308
from having the practice included in the pilot project. 31309

(D) The advisory group shall provide a copy of all 31310
applications received under this section to the director of health 31311
after making recommendations under division (B)(1) of this 31312
section. 31313

Sec. ~~185.06~~ 3701.926. (A) To be eligible for inclusion in the 31314
patient centered medical home education pilot project, a ~~physician~~ 31315
physician-led practice shall meet all of the following 31316
requirements: 31317

(1) Consist of physicians who are board-certified in family 31318
medicine, general pediatrics, or internal medicine, as those 31319
designations are issued by a medical specialty certifying board 31320
recognized by the American board of medical specialties or 31321
American osteopathic association; 31322

(2) Be capable of adapting the practice during the period in 31323
which the practice ~~receives funding from~~ participates in the 31324
patient centered medical home education ~~advisory group~~ pilot 31325
project in such a manner that the practice is fully compliant with 31326
the minimum standards for operation of a patient centered medical 31327
home, as those standards are established by the ~~advisory group~~ 31328
director of health; 31329

(3) Have submitted an application to participate in the 31330
project established under former section 185.05 of the Revised 31331
Code not later than April 15, 2011. 31332

(4) Meet any other criteria established by the ~~advisory group~~ 31333

director as part of the selection process. 31334

(B) To be eligible for inclusion in the pilot project, an 31335
advanced practice ~~nurse~~ nurse-led primary care practice shall meet 31336
all of the following requirements: 31337

(1) Consist of advanced practice nurses ~~who meet, each of~~ 31338
whom meets all of the following requirements: 31339

(a) ~~Hold~~ Holds a certificate to prescribe issued under 31340
section 4723.48 of the Revised Code; 31341

(b) ~~Are~~ Is board-certified as a family nurse practitioner or 31342
adult nurse practitioner by the American academy of nurse 31343
practitioners or American nurses credentialing center, 31344
board-certified as a geriatric nurse practitioner or women's 31345
health nurse practitioner by the American nurses credentialing 31346
center, or is board-certified as a pediatric nurse practitioner by 31347
the American nurses credentialing center or pediatric nursing 31348
certification board; 31349

(c) ~~Has a collaboration agreement~~ Collaborates under a 31350
standard care arrangement with a physician with board 31351
certification as specified in division (A)(1) of this section and 31352
who is an active participant on the health care team. 31353

(2) Be capable of adapting the primary care practice during 31354
the period in which the practice ~~receives funding from~~ 31355
participates in the advisory group project in such a manner that 31356
the practice is fully compliant with the minimum standards for 31357
operation of a patient centered medical home, as those standards 31358
are established by the ~~advisory group~~ director; 31359

(3) Have submitted an application to participate in the 31360
project established under former section 185.05 of the Revised 31361
Code not later than April 15, 2011. 31362

(4) Meet any other criteria established by the ~~advisory group~~ 31363

director as part of the selection process. 31364

Sec. ~~185.07~~ 3701.927. The ~~patient centered medical home education advisory group~~ director of health shall enter into a contract with each primary care practice selected by the director for inclusion in the patient centered medical home education pilot project. The contract shall specify the terms and conditions for inclusion in the pilot project, including a requirement that the practice provide comprehensive, coordinated primary care services to patients and serve as the patients' medical home. The contract shall also require the practice to participate in the training of medical students, advanced practice nursing students, ~~or~~ physician assistant students, and primary care medical residents. 31365
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The director may include as part of the contract any other requirements necessary for a practice to be included in the project, including requirements regarding the number of patients served who are medicaid recipients and individuals without health insurance. 31376
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Sec. ~~185.09~~ 3701.928. (A) The director of health or, at the director's request, the patient centered medical home education advisory group ~~shall jointly~~ may work with ~~all~~ medical ~~and,~~ nursing, and physician assistant schools or programs in this state to develop appropriate curricula designed to prepare primary care physicians ~~and,~~ advanced practice nurses, and physician assistants to practice within the patient centered medical home model of care. In developing the curricula, the director or advisory group, ~~medical schools, and nursing~~ and the schools or programs shall include all of the following: 31381
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(1) Components for use at the medical student, advanced practice nursing student, physician assistant student, and primary care resident training levels; 31391
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(2) Components that reflect, as appropriate, the special 31394
needs of patients who are part of a medically underserved 31395
population, including medicaid recipients, individuals without 31396
health insurance, individuals with disabilities, individuals with 31397
chronic health conditions, and individuals within racial or ethnic 31398
minority groups; 31399

(3) Components that include training in interdisciplinary 31400
cooperation between physicians ~~and~~, advanced practice nurses, and 31401
physician assistants in the patient centered medical home model of 31402
care, including curricula ensuring that a common conception of a 31403
patient centered medical home model of care is provided to medical 31404
students, advanced practice nurses, physician assistants, and 31405
primary care residents. 31406

(B) The director or advisory group ~~shall~~ may work in 31407
association with the medical ~~and~~, nursing, and physician assistant 31408
schools or programs to identify funding sources to ensure that the 31409
curricula developed under division (A) of this section are 31410
accessible to medical students, advanced practice nursing 31411
students, physician assistant students, and primary care 31412
residents. The director or advisory group shall consider 31413
scholarship options or incentives provided to students in addition 31414
to those provided under the choose Ohio first scholarship program 31415
operated under section 3333.61 of the Revised Code. 31416

Sec. 185.12 3701.929. (A) ~~The patient-centered medical home~~ 31417
~~education advisory group~~ If the director of health establishes the 31418
patient centered medical home education pilot project, the 31419
director shall prepare reports of its findings and recommendations 31420
from the ~~patient-centered medical home education~~ pilot project. 31421
Each report shall include an evaluation of the learning 31422
opportunities generated by the pilot project, the physicians and 31423
advanced practice nurses trained in the pilot project, the costs 31424

of the pilot project, and the extent to which the pilot project 31425
has met the set of expected outcomes developed under division (A) 31426
of section ~~185.03~~ 3701.924 of the Revised Code. 31427

(B) The reports shall be completed in accordance with the 31428
following schedule: 31429

(1) An interim report not later than six months after the 31430
date on which the ~~first funding is released~~ last primary care 31431
practice selected to participate in the project enters into a 31432
contract with the department of health pursuant to section ~~185.11~~ 31433
3701.927 of the Revised Code; 31434

(2) An update of the interim report not later than one year 31435
after the date ~~on which the first funding is released~~ specified 31436
under division (B)(1) of this section; 31437

(3) A final report not later than two years after the date ~~on~~ 31438
~~which the first funding is released~~ specified under division 31439
(B)(1) of this section. 31440

(C) The ~~advisory group~~ director shall submit each of the 31441
reports to the governor and, in accordance with section 101.68 of 31442
the Revised Code, to the general assembly. 31443

Sec. 3701.93. Subject to available funds, the director of 31444
health shall establish the Ohio violent death reporting system to 31445
collect and maintain information, data, and records regarding 31446
violent deaths in Ohio. 31447

Sec. 3701.931. The Ohio violent death reporting system shall 31448
do all of the following regarding violent death information, data, 31449
and records maintained in the system: 31450

(A) Monitor the incidence and causes of the various types of 31451
violent deaths; 31452

(B) Make appropriate epidemiologic studies of the violent deaths; 31453
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(C) Analyze trends and patterns in, and circumstances related to, the violent deaths; 31455
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(D) With the assistance of the advisory group established pursuant to section 3701.932 of the Revised Code, recommend actions to relevant entities to prevent violent deaths and make any other such recommendations the director of health determines necessary. 31457
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Sec. 3701.932. The director of health shall establish an advisory group of interested parties and stakeholders to recommend actions to relevant entities to prevent violent deaths, and make other recommendations the director determines necessary, in accordance with division (D) of section 3701.931 of the Revised Code. 31462
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Sec. 3701.933. The data collection model used by the Ohio violent death reporting system shall follow the data collection model used by the United States centers for disease control and prevention national violent death reporting system and any other data collection model set forth by the director of health pursuant to section 3701.934 of the Revised Code. 31468
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Sec. 3701.934. The director of health, pursuant to rules adopted in accordance with Chapter 119. of the Revised Code, shall do all of the following: 31474
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(A) Specify the types of violent deaths that shall be included in the Ohio violent death reporting system; 31477
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(B) Specify the information, data, and records to be collected for use by the Ohio violent death reporting system; 31479
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(C) Specify the sources from which the information, data, and 31481

records are to be collected for use by the Ohio violent death reporting system; 31482
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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. 31484
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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. 31487
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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. 31493
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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 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. 31498
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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 31508
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individuals or families, law enforcement agency, coroner, or 31511
public entity that provided services to an individual whose death 31512
is the type of death specified by the director of health under 31513
section 3701.934 of the Revised Code shall provide information, 31514
data, records, and otherwise assist in the execution of sections 31515
3701.93 to 3701.9314 of the Revised Code. 31516

Sec. 3701.9310. Except as otherwise provided in section 31517
3701.9212 of the Revised Code, all of the following are not public 31518
records under section 149.43 of the Revised Code, shall be 31519
confidential, and shall be published only in statistical form: 31520

(A) Information, data, and records collected for use and 31521
maintained by the Ohio violent death reporting system including, 31522
but not limited to, medical records, law enforcement investigative 31523
records, coroner investigative records, laboratory reports, and 31524
other records concerning a decedent; 31525

(B) Work products created in carrying out the purposes of the 31526
Ohio violent death reporting system. 31527

Sec. 3701.9311. Information, data, and records collected for 31528
use and maintained by, and all work products created in carrying 31529
out the purposes of, the Ohio violent death reporting system shall 31530
not be subject to subpoena or discovery while in the possession of 31531
the system or admissible in any criminal or civil proceeding if 31532
obtained through, or from, the system. 31533

Sec. 3701.9312. The director of health, pursuant to rules 31534
adopted in accordance with Chapter 119. of the Revised Code, shall 31535
establish standards and procedures to make available to 31536
researchers confidential information collected by the Ohio violent 31537
death reporting system. Researchers complying with those standards 31538
and procedures also shall comply with the confidentiality 31539

requirements of section 3701.9310 of the Revised Code. 31540

Sec. 3701.9314. The director of health may adopt rules in 31541
accordance with Chapter 119. of the Revised Code necessary to 31542
establish, maintain, and carry out the purposes of the Ohio 31543
violent death reporting system under sections 3701.93 to 3701.9314 31544
of the Revised Code. 31545

Sec. 3702.141. (A) As used in this section: 31546

(1) "Existing health care facility" means a health care 31547
facility that is licensed or otherwise approved to practice in 31548
this state, in accordance with applicable law, is staffed and 31549
equipped to provide health care services, and actively provides 31550
health services or has not been actively providing health services 31551
for less than twelve consecutive months. 31552

(2) "Freestanding birthing center" means any facility in 31553
which deliveries routinely occur, regardless of whether the 31554
facility is located on the campus of another health care facility, 31555
and which is not licensed under Chapter 3711. of the Revised Code 31556
as a level one, two, or three maternity unit or a limited 31557
maternity unit. 31558

~~(3) "Health care facility" and "health service" have the same~~ 31559
~~meanings as in section 3702.51 of the Revised Code~~ means: 31560

(a) A hospital registered under section 3701.07 of the 31561
Revised Code; 31562

(b) A nursing home licensed under section 3721.02 of the 31563
Revised Code, or by a political subdivision certified under 31564
section 3721.09 of the Revised Code; 31565

(c) A county home or a county nursing home as defined in 31566
section 5155.31 of the Revised Code that is certified under Title 31567
XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 31568

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| <u>U.S.C.A. 301, as amended;</u> | 31569 |
| <u>(d) A freestanding dialysis center;</u> | 31570 |
| <u>(e) A freestanding inpatient rehabilitation facility;</u> | 31571 |
| <u>(f) An ambulatory surgical facility;</u> | 31572 |
| <u>(g) A freestanding cardiac catheterization facility;</u> | 31573 |
| <u>(h) A freestanding birthing center;</u> | 31574 |
| <u>(i) A freestanding or mobile diagnostic imaging center;</u> | 31575 |
| <u>(j) A freestanding radiation therapy center.</u> | 31576 |
| <u>A health care facility does not include the offices of</u> | 31577 |
| <u>private physicians and dentists whether for individual or group</u> | 31578 |
| <u>practice, residential facilities licensed under section 5123.19 of</u> | 31579 |
| <u>the Revised Code, or an institution for the sick that is operated</u> | 31580 |
| <u>exclusively for patients who use spiritual means for healing and</u> | 31581 |
| <u>for whom the acceptance of medical care is inconsistent with their</u> | 31582 |
| <u>religious beliefs, accredited by a national accrediting</u> | 31583 |
| <u>organization, exempt from federal income taxation under section</u> | 31584 |
| <u>501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26</u> | 31585 |
| <u>U.S.C.A. 1, as amended, and providing twenty-four hour nursing</u> | 31586 |
| <u>care pursuant to the exemption in division (E) of section 4723.32</u> | 31587 |
| <u>of the Revised Code from the licensing requirements of Chapter</u> | 31588 |
| <u>4723. of the Revised Code.</u> | 31589 |
| <u>(4) "Health service" means a clinically related service, such</u> | 31590 |
| <u>as a diagnostic, treatment, rehabilitative, or preventive service.</u> | 31591 |
| (B) Section 3702.14 of the Revised Code shall not be | 31592 |
| construed to require any existing health care facility that is | 31593 |
| conducting an activity specified in section 3702.11 of the Revised | 31594 |
| Code, which activity was initiated on or before March 20, 1997, to | 31595 |
| alter, upgrade, or otherwise improve the structure or fixtures of | 31596 |
| the facility in order to comply with any rule adopted under | 31597 |
| section 3702.11 of the Revised Code relating to that activity, | 31598 |

unless one of the following applies: 31599

(1) The facility initiates a construction, renovation, or reconstruction project that involves a capital expenditure of at least fifty thousand dollars, not including expenditures for equipment or staffing or operational costs, and that directly involves the area in which the existing service is conducted. 31600
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(2) The facility initiates another activity specified in section 3702.11 of the Revised Code. 31605
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~~(3) The facility initiates a service level designation change for obstetric and newborn care.~~ 31607
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~~(4)~~ The facility proposes to add a cardiac catheterization laboratory to an existing cardiac catheterization service. 31609
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~~(5)~~(4) The facility proposes to add an open-heart operating room to an existing open-heart surgery service. 31611
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~~(6)~~(5) The director of health determines, by clear and convincing evidence, that failure to comply with the rule would create an imminent risk to the health and welfare of any patient. 31613
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(C) If division (B)~~(4)~~(3) or ~~(5)~~(4) of this section applies, any alteration, upgrade, or other improvement required shall apply only to the proposed addition to the existing service if the cost of the addition is less than the capital expenditure threshold set forth in division (B)(1) of this section. 31616
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(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. 31621
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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 31625
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3702.33 of the Revised Code and rules adopted pursuant to those 31629
sections. The director shall deposit in the fund any moneys 31630
collected pursuant to this section or section 3702.32 of the 31631
Revised Code. All investment earnings of the fund shall be 31632
credited to the fund. 31633

(B) The director of health shall adopt rules pursuant to 31634
Chapter 119. of the Revised Code establishing fees for both of the 31635
following: 31636

(1) Initial and renewal license applications submitted under 31637
section 3702.30 of the Revised Code. The fees established under 31638
division (B)(1) of this section shall not exceed the actual and 31639
necessary costs of performing the activities described in division 31640
(A) of this section. 31641

(2) Inspections conducted under section 3702.15 or 3702.30 of 31642
the Revised Code. The fees established under division (B)(2) of 31643
this section shall not exceed the actual and necessary costs 31644
incurred during an inspection, including any indirect costs 31645
incurred by the department for staff, salary, or other 31646
administrative costs. The director of health shall provide to each 31647
health care facility or provider inspected pursuant to section 31648
3702.15 or 3702.30 of the Revised Code a written statement of the 31649
fee. The statement shall itemize and total the costs incurred. 31650
Within fifteen days after receiving a statement from the director, 31651
the facility or provider shall forward the total amount of the fee 31652
to the director. 31653

(3) The fees described in divisions (B)(1) and (2) of this 31654
section shall meet both of the following requirements: 31655

(a) For each service described in section 3702.11 of the 31656
Revised Code, the fee shall not exceed one thousand seven hundred 31657
fifty dollars annually, except that the total fees charged to a 31658
health care provider under this section shall not exceed five 31659

thousand dollars annually. 31660

(b) The fee shall exclude any costs reimbursable by the 31661
United States centers for medicare and medicaid services as part 31662
of the certification process for the medicare program established 31663
under Title XVIII of the "Social Security Act," 79 Stat. 286 31664
(1935), 42 U.S.C.A. 1395, as amended, and the medicaid program 31665
established under Title XIX of the "Social Security Act," 79 Stat. 31666
286 (1965), 42 U.S.C. 1396. 31667

(4) The director shall not establish a fee for any service 31668
for which a licensure or inspection fee is paid by the health care 31669
provider to a state agency for the same or similar licensure or 31670
inspection. 31671

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the 31672
Revised Code: 31673

(A) "Applicant" means any person that submits an application 31674
for a certificate of need and who is designated in the application 31675
as the applicant. 31676

(B) "Person" means any individual, corporation, business 31677
trust, estate, firm, partnership, association, joint stock 31678
company, insurance company, government unit, or other entity. 31679

(C) "Certificate of need" means a written approval granted by 31680
the director of health to an applicant to authorize conducting a 31681
reviewable activity. 31682

(D) "~~Health service~~ Service area" means ~~a geographic region~~ 31683
~~designated by the director of health under section 3702.58 of the~~ 31684
~~Revised Code~~ the current and projected primary and secondary 31685
service areas to which the long-term care facility is, or will be, 31686
providing long-term care services. 31687

(E) "~~Health~~ Primary service area" means ~~a clinically related~~ 31688
~~service, such as a diagnostic, treatment, rehabilitative, or~~ 31689

~~preventive service the geographic region, usually comprised of the~~ 31690
~~Ohio zip code in which the long-term care facility is located and~~ 31691
~~contiguous zip codes, from which approximately seventy-five to~~ 31692
~~eighty per cent of the facility's residents currently originate or~~ 31693
~~are expected to originate.~~ 31694

(F) ~~"Health Secondary service agency area" means an agency~~ 31695
~~designated to serve a health service area in accordance with~~ 31696
~~section 3702.58 of the Revised Code the geographic region, usually~~ 31697
~~comprised of Ohio zip codes not included in the primary service~~ 31698
~~area, excluding isolated exceptions, from which the facility's~~ 31699
~~remaining residents currently originate or are expected to~~ 31700
~~originate.~~ 31701

(G) ~~"Health care facility" means:~~ 31702

~~(1) A hospital registered under section 3701.07 of the~~ 31703
~~Revised Code;~~ 31704

~~(2) A nursing home licensed under section 3721.02 of the~~ 31705
~~Revised Code, or by a political subdivision certified under~~ 31706
~~section 3721.09 of the Revised Code;~~ 31707

~~(3) A county home or a county nursing home as defined in~~ 31708
~~section 5155.31 of the Revised Code that is certified under Title~~ 31709
~~XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 31710
~~U.S.C.A. 301, as amended;~~ 31711

~~(4) A freestanding dialysis center;~~ 31712

~~(5) A freestanding inpatient rehabilitation facility;~~ 31713

~~(6) An ambulatory surgical facility;~~ 31714

~~(7) A freestanding cardiac catheterization facility;~~ 31715

~~(8) A freestanding birthing center;~~ 31716

~~(9) A freestanding or mobile diagnostic imaging center;~~ 31717

~~(10) A freestanding radiation therapy center.~~ 31718

~~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, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.~~

~~(K)(I) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.~~

~~(I)~~(J) "Existing ~~health~~ long-term care facility" means either 31750
of the following: 31751

(1) A ~~health~~ long-term care facility that is licensed or 31752
otherwise authorized to operate in this state in accordance with 31753
applicable law, including a county home or a county nursing home 31754
that is certified ~~as of February 1, 2008,~~ under Title XVIII or 31755
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 31756
U.S.C. 301, as amended, is staffed and equipped to provide ~~health~~ 31757
long-term care services, and is actively providing ~~health~~ 31758
long-term care services; 31759

(2) A ~~health~~ long-term care facility that is licensed or 31760
otherwise authorized to operate in this state in accordance with 31761
applicable law, including a county home or a county nursing home 31762
that is certified ~~as of February 1, 2008,~~ under Title XVIII or 31763
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 31764
U.S.C. 301, as amended, or that has beds registered under section 31765
3701.07 of the Revised Code as skilled nursing beds or long-term 31766
care beds and has provided long-term care services for at least 31767
three hundred sixty-five consecutive days within the twenty-four 31768
months immediately preceding the date a certificate of need 31769
application is filed with the director of health. 31770

~~(M)~~(K) "State" means the state of Ohio, including, but not 31771
limited to, the general assembly, the supreme court, the offices 31772
of all elected state officers, and all departments, boards, 31773
offices, commissions, agencies, institutions, and other 31774
instrumentalities of the state of Ohio. "State" does not include 31775
political subdivisions. 31776

~~(N)~~(L) "Political subdivision" means a municipal corporation, 31777
township, county, school district, and all other bodies corporate 31778
and politic responsible for governmental activities only in 31779
geographic areas smaller than that of the state to which the 31780
sovereign immunity of the state attaches. 31781

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| (O) (M) "Affected person" means: | 31782 |
| (1) An applicant for a certificate of need, including an applicant whose application was reviewed comparatively with the application in question; | 31783 31784 31785 |
| (2) The person that requested the reviewability ruling in question; | 31786 31787 |
| (3) Any person that resides or regularly uses health <u>long-term</u> care facilities within the geographic <u>service</u> area served or to be served by the health <u>long-term</u> care services that would be provided under the certificate of need or reviewability ruling in question; | 31788 31789 31790 31791 31792 |
| (4) Any health <u>long-term</u> care facility that is located in the health service area where the health <u>long-term</u> care services would be provided under the certificate of need or reviewability ruling in question; | 31793 31794 31795 31796 |
| (5) Third-party payers that reimburse health <u>long-term</u> care facilities for services in the health service area where the health <u>long-term</u> care services would be provided under the certificate of need or reviewability ruling in question. | 31797 31798 31799 31800 |
| (6) Any other person who testified at a public hearing held under division (B) of section 3702.52 of the Revised Code or submitted written comments in the course of review of the certificate of need application in question. | 31801 31802 31803 31804 |
| (P) "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: | 31805 31806 31807 31808 |
| (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 | 31809 31810 31811 |

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| physician; | 31812 |
| (2) Maintaining an active medical staff, the majority of | 31813 |
| which is comprised of osteopathic physicians; | 31814 |
| (3) Maintaining a medical staff executive committee that has | 31815 |
| osteopathic physicians as a majority of its members. | 31816 |
| (Q) "Ambulatory surgical facility" has the same meaning as in | 31817 |
| section 3702.30 of the Revised Code. | 31818 |
| (R) Except as provided in division (S) of this section, | 31819 |
| "reviewable activity" means any of the following activities: | 31820 |
| (1) The establishment, development, or construction of a new | 31821 |
| long term care facility; | 31822 |
| (2) The replacement of an existing long term care facility; | 31823 |
| (3) The renovation of a long term care facility that involves | 31824 |
| a capital expenditure of two million dollars or more, not | 31825 |
| including expenditures for equipment, staffing, or operational | 31826 |
| costs; | 31827 |
| (4) Either of the following changes in long term care bed | 31828 |
| capacity: | 31829 |
| (a) An increase in bed capacity; | 31830 |
| (b) A relocation of beds from one physical facility or site | 31831 |
| to another, excluding the relocation of beds within a long term | 31832 |
| care facility or among buildings of a long term care facility at | 31833 |
| the same site. | 31834 |
| (5) Any change in the health services, bed capacity, or site, | 31835 |
| or any other failure to conduct the reviewable activity in | 31836 |
| substantial accordance with the approved application for which a | 31837 |
| certificate of need concerning long term care beds was granted, if | 31838 |
| the change is made within five years after the implementation of | 31839 |
| the reviewable activity for which the certificate was granted; | 31840 |

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| (6) The expenditure of more than one hundred ten per cent of | 31841 |
| the maximum expenditure specified in a certificate of need | 31842 |
| concerning long term care beds. | 31843 |
| (S) "Reviewable activity" does not include any of the | 31844 |
| following activities: | 31845 |
| (1) Acquisition of computer hardware or software; | 31846 |
| (2) Acquisition of a telephone system; | 31847 |
| (3) Construction or acquisition of parking facilities; | 31848 |
| (4) Correction of cited deficiencies that are in violation of | 31849 |
| federal, state, or local fire, building, or safety laws and rules | 31850 |
| and that constitute an imminent threat to public health or safety; | 31851 |
| (5) Acquisition of an existing health care facility that does | 31852 |
| not involve a change in the number of the beds, by service, or in | 31853 |
| the number or type of health services; | 31854 |
| (6) Correction of cited deficiencies identified by | 31855 |
| accreditation surveys of the joint commission on accreditation of | 31856 |
| healthcare organizations or of the American osteopathic | 31857 |
| association; | 31858 |
| (7) Acquisition of medical equipment to replace the same or | 31859 |
| similar equipment for which a certificate of need has been issued | 31860 |
| if the replaced equipment is removed from service; | 31861 |
| (8) Mergers, consolidations, or other corporate | 31862 |
| reorganizations of health care facilities that do not involve a | 31863 |
| change in the number of beds, by service, or in the number or type | 31864 |
| of health services; | 31865 |
| (9) Construction, repair, or renovation of bathroom | 31866 |
| facilities; | 31867 |
| (10) Construction of laundry facilities, waste disposal | 31868 |
| facilities, dietary department projects, heating and air | 31869 |
| conditioning projects, administrative offices, and portions of | 31870 |

~~medical office buildings used exclusively for physician services;~~ 31871

~~(11) Acquisition of medical equipment to conduct research 31872
required by the United States food and drug administration or 31873
clinical trials sponsored by the national institute of health. Use 31874
of medical equipment that was acquired without a certificate of 31875
need under division (S)(11) of this section and for which 31876
premarket approval has been granted by the United States food and 31877
drug administration to provide services for which patients or 31878
reimbursement entities will be charged shall be a reviewable 31879
activity. 31880~~

~~(12) Removal of asbestos from a health care facility. 31881~~

~~Only that portion of a project that meets the requirements of 31882
this division is not a reviewable activity. 31883~~

~~(T) "Small rural hospital" means a hospital that is located 31884
within a rural area, has fewer than one hundred beds, and to which 31885
fewer than four thousand persons were admitted during the most 31886
recent calendar year. 31887~~

~~(U) "Children's hospital" means any of the following: 31888~~

~~(1) A hospital registered under section 3701.07 of the 31889
Revised Code that provides general pediatric medical and surgical 31890
care, and in which at least seventy five per cent of annual 31891
inpatient discharges for the preceding two calendar years were 31892
individuals less than eighteen years of age; 31893~~

~~(2) A distinct portion of a hospital registered under section 31894
3701.07 of the Revised Code that provides general pediatric 31895
medical and surgical care, has a total of at least one hundred 31896
fifty registered pediatric special care and pediatric acute care 31897
beds, and in which at least seventy five per cent of annual 31898
inpatient discharges for the preceding two calendar years were 31899
individuals less than eighteen years of age; 31900~~

~~(3) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (U)(1) of this section.~~

~~(V)~~(N) "Long-term care facility" means any of the following:

(1) 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;

(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";

(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

~~(W)~~(O) "Long-term care bed" or "bed" means a bed ~~in a long-term care facility that is categorized as one of the following:~~

(1) A bed that is located in a facility that is a nursing home licensed under section 3721.02 of the Revised Code or a facility licensed by a political subdivision certified under section 3721.09 of the Revised Code and is included in the authorized maximum licensed capacity of the facility;

(2) A bed that is located in the portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility under the medicare program or a nursing facility under the medicaid program and is included in the authorized maximum certified capacity of that portion of the facility;

(3) A bed that is registered under section 3701.07 of the

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| <u>Revised Code as a skilled nursing bed, a long-term care bed, or a</u> | 31931 |
| <u>special skilled nursing bed;</u> | 31932 |
| <u>(4) A bed in a county home or county nursing home that has</u> | 31933 |
| <u>been certified under section 5155.38 of the Revised Code as having</u> | 31934 |
| <u>been in operation on July 1, 1993, and is eligible for licensure</u> | 31935 |
| <u>as a nursing home bed;</u> | 31936 |
| <u>(5) A bed held as an approved bed under a certificate of need</u> | 31937 |
| <u>approved by the director.</u> | 31938 |
| <u>A bed cannot simultaneously be both a bed described in</u> | 31939 |
| <u>division (0)(1), (2), (3), or (4) of this section and a bed</u> | 31940 |
| <u>described in division (0)(5) of this section.</u> | 31941 |
| (X) "Freestanding birthing center" means any facility in | 31942 |
| which deliveries routinely occur, regardless of whether the | 31943 |
| facility is located on the campus of another health care facility, | 31944 |
| and which is not licensed under Chapter 3711. of the Revised Code | 31945 |
| as a level one, two, or three maternity unit or a limited | 31946 |
| maternity unit. | 31947 |
| (Y)(1)(P) "Reviewability ruling" means a ruling issued by the | 31948 |
| director of health under division (A) of section 3702.52 of the | 31949 |
| Revised Code as to whether a particular proposed project is or is | 31950 |
| not a reviewable activity. | 31951 |
| (2) "Nonreviewability ruling" means a ruling issued under | 31952 |
| that division that a particular proposed project is not a | 31953 |
| reviewable activity. | 31954 |
| (Z)(1) "Metropolitan statistical area" means an area of this | 31955 |
| state designated a metropolitan statistical area or primary | 31956 |
| metropolitan statistical area in United States office of | 31957 |
| management and budget bulletin no. 93-17, June 30, 1993, and its | 31958 |
| attachments. | 31959 |
| (2) "Rural area" means any area of this state not located | 31960 |

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| within a metropolitan statistical area. | 31961 |
| (AA) (O) "County nursing home" has the same meaning as in section 5155.31 of the Revised Code. | 31962 31963 |
| (BB) (R) "Principal participant" means both of the following: | 31964 |
| (1) A person who has an ownership or controlling interest of at least five per cent in an applicant, in a health <u>long-term</u> 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; | 31965 31966 31967 31968 31969 |
| (2) An officer, director, trustee, or general partner of an applicant, of a health <u>long-term</u> 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. | 31970 31971 31972 31973 |
| (CC) (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. | 31974 31975 31976 31977 31978 31979 |
| (DD) (T) "Immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in immediate jeopardy to resident health or safety or represents widespread deficiencies resulting in immediate jeopardy to resident health or safety. | 31980 31981 31982 31983 31984 |
| <u>(U) "Existing bed" or "existing long-term care bed" means a bed from an existing long-term care facility, a bed described in division (O)(5) of this section, or a bed correctly reported as a long-term care bed pursuant to section 5155.38 of the Revised Code.</u> | 31985 31986 31987 31988 31989 |
| <u>Sec. 3702.511. (A) Except as provided in division (B) of this</u> | 31990 |

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| <u>section, the following activities are reviewable under sections</u> | 31991 |
| <u>3702.51 to 3702.62 of the Revised Code:</u> | 31992 |
| <u>(1) Establishment, development, or construction of a new</u> | 31993 |
| <u>long-term care facility;</u> | 31994 |
| <u>(2) Replacement of an existing long-term care facility;</u> | 31995 |
| <u>(3) Renovation of or addition to a long-term care facility</u> | 31996 |
| <u>that involves a capital expenditure of two million dollars or</u> | 31997 |
| <u>more, not including expenditures for equipment, staffing, or</u> | 31998 |
| <u>operational costs;</u> | 31999 |
| <u>(4) Either of the following changes in long-term care bed</u> | 32000 |
| <u>capacity:</u> | 32001 |
| <u>(a) An increase in bed capacity;</u> | 32002 |
| <u>(b) A relocation of beds from one physical facility or site</u> | 32003 |
| <u>to another, excluding relocation of beds within a long-term care</u> | 32004 |
| <u>facility or among buildings of a long-term care facility at the</u> | 32005 |
| <u>same site.</u> | 32006 |
| <u>(5) Any change in the bed capacity or site, or any other</u> | 32007 |
| <u>failure to conduct a reviewable activity in substantial accordance</u> | 32008 |
| <u>with the approved application for which a certificate of need</u> | 32009 |
| <u>concerning long-term care beds was granted, if the change is made</u> | 32010 |
| <u>within five years after the implementation of the reviewable</u> | 32011 |
| <u>activity for which the certificate was granted;</u> | 32012 |
| <u>(6) Expenditure of more than one hundred ten per cent of the</u> | 32013 |
| <u>maximum expenditure specified in a certificate of need concerning</u> | 32014 |
| <u>long-term care beds.</u> | 32015 |
| <u>(B) The following activities are not subject to review under</u> | 32016 |
| <u>sections 3702.51 to 3702.62 of the Revised Code:</u> | 32017 |
| <u>(1) Acquisition of computer hardware or software;</u> | 32018 |
| <u>(2) Acquisition of a telephone system;</u> | 32019 |

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| <u>(3) Construction or acquisition of parking facilities;</u> | 32020 |
| <u>(4) Correction of cited deficiencies that constitute an</u> | 32021 |
| <u>imminent threat to public health or safety and are in violation of</u> | 32022 |
| <u>federal, state, or local fire, building, or safety statutes,</u> | 32023 |
| <u>ordinances, rules, or regulations;</u> | 32024 |
| <u>(5) Acquisition of an existing long-term care facility that</u> | 32025 |
| <u>does not involve a change in the number of the beds;</u> | 32026 |
| <u>(6) Mergers, consolidations, or other corporate</u> | 32027 |
| <u>reorganizations of long-term care facilities that do not involve a</u> | 32028 |
| <u>change in the number of beds;</u> | 32029 |
| <u>(7) Construction, repair, or renovation of bathroom</u> | 32030 |
| <u>facilities;</u> | 32031 |
| <u>(8) Construction of laundry facilities, waste disposal</u> | 32032 |
| <u>facilities, dietary department projects, heating and air</u> | 32033 |
| <u>conditioning projects, administrative offices, and portions of</u> | 32034 |
| <u>medical office buildings used exclusively for physician services;</u> | 32035 |
| <u>(9) Removal of asbestos from a health care facility.</u> | 32036 |
| <u>Only that portion of a project that is described in this</u> | 32037 |
| <u>division is not reviewable.</u> | 32038 |
| Sec. 3702.52. The director of health shall administer a state | 32039 |
| certificate of need program in accordance with sections 3702.51 to | 32040 |
| 3702.62 of the Revised Code and rules adopted under those | 32041 |
| sections. | 32042 |
| (A) The director shall issue rulings on whether a particular | 32043 |
| proposed project is a reviewable activity. The director shall | 32044 |
| issue a ruling not later than forty-five days after receiving a | 32045 |
| request for a ruling accompanied by the information needed to make | 32046 |
| the ruling. If the director does not issue a ruling in that time, | 32047 |
| the project shall be considered to have been ruled not a | 32048 |
| reviewable activity. | 32049 |

(B)(1) Each application for a certificate of need shall be 32050
submitted to the director on forms and in the manner prescribed by 32051
the director. Each application shall include a plan for obligating 32052
the capital expenditures or implementing the proposed project on a 32053
timely basis in accordance with section ~~3702.525~~ 3702.524 of the 32054
Revised Code. Each application shall also include all other 32055
information required by rules adopted under division (B) of 32056
section 3702.57 of the Revised Code. 32057

(2) Each application shall be accompanied by the application 32058
fee established in rules adopted under division (G) of section 32059
3702.57 of the Revised Code. Application fees received by the 32060
director under this division shall be deposited into the state 32061
treasury to the credit of the certificate of need fund, which is 32062
hereby created. The director shall use the fund only to pay the 32063
costs of administering sections 3702.11 to 3702.20, 3702.30, and 32064
3702.51 to 3702.62 of the Revised Code and rules adopted under 32065
those sections. An application fee is nonrefundable unless the 32066
director determines that the application cannot be accepted. 32067

(3) The director shall review applications for certificates 32068
of need. As part of a review, the director shall determine whether 32069
an application is complete. The director shall not consider an 32070
application to be complete unless the application meets all 32071
criteria for a complete application specified in rules adopted 32072
under section 3702.57 of the Revised Code. The director shall mail 32073
to the applicant a written notice that the application is 32074
complete, or a written request for additional information, not 32075
later than thirty days after receiving an application or a 32076
response to an earlier request for information. Except as provided 32077
in section ~~3702.523~~ 3702.522 of the Revised Code, the director 32078
shall not make more than two requests for additional information. 32079
The director's determination that an application is not complete 32080
is final and not subject to appeal. 32081

~~The director may conduct a public informational hearing in 32082
the course of reviewing any application for a certificate of need, 32083
and shall conduct one if requested to do so by any affected person 32084
not later than fifteen days after the director mails the notice 32085
that the application is complete. The hearing shall be conducted 32086
in the community in which the activities authorized by the 32087
certificate of need would be carried out. Any affected person may 32088
testify at the hearing. The director may, with the health service 32089
agency's consent, designate a health service agency to conduct the 32090
hearing. 32091~~

~~(4) Except during a public hearing or as necessary to comply 32092
with a subpoena issued under division ~~(E)~~(F) of this section, 32093
after a notice of completeness has been received, no person shall 32094
make revisions to information that was submitted to the director 32095
before the director mailed the notice of completeness or knowingly 32096
discuss in person or by telephone the merits of the application 32097
with the director. A person may supplement an application after a 32098
notice of completeness has been received by submitting clarifying 32099
information to the director. ~~If one or more persons request a 32100
meeting in person or by telephone, the director shall make a 32101
reasonable effort to invite interested parties to the meeting or 32102
conference call. 32103~~~~

~~(C) All of the following apply to the process of granting or 32104
denying a certificate of need: 32105~~

~~(1) If the project proposed in a certificate of need 32106
application meets all of the applicable certificate of need 32107
criteria for approval under sections 3702.51 to 3702.62 of the 32108
Revised Code and the rules adopted under those sections, the 32109
director shall grant a certificate of need for all or part of the 32110
project that is the subject of the application by the applicable 32111
deadline specified in division (C)(4) of this section or any 32112
extension of it under division (C)(5) of this section. 32113~~

(2) The director's grant of a certificate of need does not 32114
affect, and sets no precedent for, the director's decision to 32115
grant or deny other applications for similar reviewable activities 32116
~~proposed to be conducted in the same or different health service~~ 32117
~~areas.~~ 32118

(3) ~~If the director receives written objections to an~~ 32119
~~application from any~~ Any affected person may submit written 32120
comments regarding an application. The director shall consider all 32121
written comments received by the thirtieth day after mailing the 32122
notice of completeness, ~~the director shall notify the applicant~~ 32123
~~and assign a hearing examiner to conduct an adjudication hearing~~ 32124
~~concerning the application in accordance with Chapter 119. of the~~ 32125
~~Revised Code. In or, in~~ the case of applications under comparative 32126
review, ~~if the director receives written objections to any of the~~ 32127
~~applications from any affected person~~ by the thirtieth day after 32128
the director mails the last notice of completeness, ~~the director~~ 32129
~~shall notify all of the applicants and appoint a hearing examiner~~ 32130
~~to conduct a consolidated adjudication hearing concerning the~~ 32131
~~applications in accordance with Chapter 119. of the Revised Code.~~ 32132
~~The hearing examiner shall be employed by or under contract with~~ 32133
~~the department of health.~~ 32134

~~The adjudication hearings may be conducted in the health~~ 32135
~~service area in which the reviewable activity is proposed to be~~ 32136
~~conducted. Consolidated adjudication hearings for applications in~~ 32137
~~comparative review may be conducted in the geographic region in~~ 32138
~~which all of the reviewable activities will be conducted. The~~ 32139
~~applicant, the director, and the affected persons that filed~~ 32140
~~objections to the application shall be parties to the hearing. If~~ 32141
~~none of the affected persons that submitted written objections to~~ 32142
~~the application appears or prosecutes the hearing, the hearing~~ 32143
~~examiner shall dismiss the hearing and the director shall grant a~~ 32144
~~certificate of need for all or part of the project that is the~~ 32145

~~subject of the application if the proposed project meets all of 32146
the applicable certificate of need criteria for approval under 32147
sections 3702.51 to 3702.62 of the Revised Code and the rules 32148
adopted under those sections. The affected persons bear the burden 32149
of proving by a preponderance of evidence that the project is not 32150
needed or that granting the certificate would not be in accordance 32151
with sections 3702.51 to 3702.62 of the Revised Code or the rules 32152
adopted under those sections. 32153~~

~~(4) Except as provided in division (C)(5) of this section, 32154
the director shall grant or deny certificate of need applications 32155
for which an adjudication hearing is not conducted under division 32156
(C)(3) of this section not later than sixty days after mailing the 32157
notice of completeness or, in the case of an application proposing 32158
addition of long term care beds, not later than sixty days after 32159
such other time as is specified in rules adopted under section 32160
3702.57 of the Revised Code. Except as provided in division (C)(5) 32161
of this section, the director shall grant or deny certificate of 32162
need applications for which an adjudication hearing is conducted 32163
under division (C)(3) of this section not later than thirty days 32164
after the expiration of the time for filing objections to the 32165
report and recommendation of the hearing examiner under section 32166
119.09 of the Revised Code. The director shall base decisions 32167
concerning applications for which an adjudication hearing is 32168
conducted under division (C)(3) of this section on the report and 32169
recommendations of the hearing examiner. 32170~~

~~(5) Except as otherwise provided in division (C)(6) of this 32171
section, the director or the applicant may extend the deadline 32172
prescribed in division (C)(4) of this section once, for no longer 32173
than thirty days, by written notice before the end of the deadline 32174
prescribed by division (C)(4) of this section. An extension by the 32175
director under division (C)(5) of this section shall apply to all 32176
applications that are in comparative review. 32177~~

(6) No applicant in a comparative review may extend the 32178
deadline specified in division (C)(4) of this section. 32179

(7) If the director does not grant or deny the certificate by 32180
the applicable deadline specified in division (C)(4) of this 32181
section or any extension of it under division (C)(5) of this 32182
section, the certificate shall be considered to have been granted. 32183

(8) In granting a certificate of need, the director shall 32184
specify as the maximum capital expenditure the certificate holder 32185
may obligate under the certificate a figure equal to one hundred 32186
ten per cent of the approved project cost. 32187

(9) In granting a certificate of need, the director may grant 32188
the certificate with conditions that must be met by the holder of 32189
the certificate. 32190

(D) When a certificate of need application is approved for a 32191
project under which the beds are relocated, a number of beds equal 32192
to the number relocated shall cease to be operated in the 32193
long-term care facility from which they were relocated, except 32194
that the beds may continue to be operated for not more than 32195
fifteen days to allow relocation of residents to the facility to 32196
which the beds have been relocated. Notwithstanding section 32197
3721.03 of the Revised Code, if the relocated beds are in a home 32198
licensed under Chapter 3721. of the Revised Code, the facility's 32199
license is automatically reduced by the number of beds relocated 32200
effective fifteen days after the beds are relocated. If the beds 32201
are in a facility that is certified as a skilled nursing facility 32202
or nursing facility under Title XVIII or XIX of the "Social 32203
Security Act," the certification for the beds shall be 32204
surrendered. If the beds are registered under section 3701.07 of 32205
the Revised Code as skilled nursing beds or long-term care beds, 32206
the director shall remove the beds from registration not later 32207
than fifteen days after the beds are relocated. 32208

(E) The director shall monitor the activities of persons 32209
granted certificates of need during the period beginning with the 32210
granting of the certificate of need and ending five years after 32211
implementation of the activity for which the certificate was 32212
granted. 32213

~~(E)~~(F) When reviewing applications for certificates of need, 32214
considering appeals under section 3702.60 of the Revised Code, or 32215
monitoring activities of persons granted certificates of need, the 32216
director may issue and enforce, in the manner provided in section 32217
119.09 of the Revised Code, subpoenas and subpoenas duces tecum to 32218
compel ~~the production of a person to testify and produce~~ documents 32219
relevant to review of the application, consideration of the 32220
appeal, or monitoring of the activities. In addition, the director 32221
or the director's designee, ~~which may include a health service~~ 32222
~~agency,~~ may visit the sites where the activities are or will be 32223
conducted. 32224

~~(F)~~(G) The director may withdraw certificates of need. 32225

~~(G)~~ The director shall conduct, on a regular basis, health 32226
system data collection and analysis activities and prepare 32227
reports. The director shall make recommendations based upon these 32228
activities to the public health council concerning the adoption of 32229
appropriate rules under section 3702.57 of the Revised Code. (H) 32230
All health long-term care facilities and other health care 32231
providers shall submit to the director, upon request, any 32232
information prescribed by rules adopted under division (H) of 32233
section 3702.57 of the Revised Code that is necessary to conduct 32234
reviews of certificate of need applications and to develop 32235
~~recommendations for criteria for reviews, and that is prescribed~~ 32236
~~by rules adopted under division (H) of section 3702.57 of the~~ 32237
~~Revised Code.~~ 32238

~~(H)~~(I) Any decision to grant or deny a certificate of need 32239
shall consider the special needs and circumstances resulting from 32240

moral and ethical values and the free exercise of religious rights 32241
of ~~health~~ long-term care facilities administered by religious 32242
organizations, and the special needs and circumstances of inner 32243
city and rural communities. 32244

Sec. ~~3702.522~~ 3702.521. (A) Reviews of applications for 32245
certificates of need to recategorize hospital beds to skilled 32246
nursing beds shall be conducted in accordance with this division 32247
and rules adopted by the ~~public~~ director of health ~~council~~. 32248

(1) No hospital recategorizing beds shall apply for a 32249
certificate of need for more than twenty skilled nursing beds. 32250

(2) No beds for which a certificate of need is requested 32251
under this division shall be reviewed under or counted in any 32252
formula developed under ~~public health council~~ rules adopted by the 32253
director for the purpose of determining the number of long-term 32254
care beds that may be needed within the state. 32255

(3) No beds shall be approved under this division unless the 32256
hospital certifies and demonstrates in the application that the 32257
beds will be dedicated to patients with a length of stay of no 32258
more than thirty days. 32259

(4) No beds shall be approved under this division unless the 32260
hospital can satisfactorily demonstrate in the application that it 32261
is routinely unable to place the patients planned for the beds in 32262
accessible skilled nursing facilities. 32263

(5) In developing rules to implement this division, the 32264
~~public health council~~ director shall give special attention to the 32265
required documentation of the need for such beds, including the 32266
efforts made by the hospital to place patients in suitable skilled 32267
nursing facilities, and special attention to the appropriate size 32268
of units with such beds given the historical pattern of the 32269
applicant hospital's documented difficulty in placing skilled 32270

nursing patients. 32271

(B) ~~To assist the director of health~~ For assistance in 32272
monitoring the use of hospital beds recategorized as skilled 32273
nursing beds after August 5, 1989, the ~~public health council~~ 32274
director shall adopt rules specifying appropriate quarterly 32275
procedures for reporting to the department of health. 32276

(C) A patient may stay in a hospital bed that, after August 32277
5, 1989, has been recategorized as a skilled nursing bed for more 32278
than thirty days if the hospital is able to demonstrate that it 32279
made a good faith effort to place the patient in an accessible 32280
skilled nursing facility acceptable to the patient within the 32281
thirty-day period, but was unable to do so. 32282

(D) No hospital bed recategorized after August 5, 1989, as a 32283
skilled nursing bed shall be covered by a provider agreement under 32284
the medical assistance program established under Chapter 5111. of 32285
the Revised Code. 32286

(E) Nothing in this section requires a hospital to place a 32287
patient in any nursing home if the patient does not wish to be 32288
placed in the nursing home. Nothing in this section limits the 32289
ability of a hospital to file a certificate of need application 32290
for the addition of long-term care beds that meet the definition 32291
of "home" in section 3721.01 of the Revised Code. Nothing in this 32292
section limits the ability of the director to grant certificates 32293
of need necessary for hospitals to engage in demonstration 32294
projects authorized by the federal government for the purpose of 32295
enhancing long-term quality of care and cost containment. Nothing 32296
in this section limits the ability of hospitals to develop swing 32297
bed programs in accordance with federal regulations. 32298

No hospital that is granted a certificate of need after 32299
August 5, 1989, to recategorize hospital beds as skilled nursing 32300
beds is subject to sections 3721.01 to 3721.09 of the Revised 32301

Code. If the portion of the hospital in which the recategorized 32302
beds are located is certified as a skilled nursing facility under 32303
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 32304
U.S.C.A. 301, as amended, that portion of the hospital is subject 32305
to sections 3721.10 to 3721.17 and sections 3721.21 to 3721.34 of 32306
the Revised Code. If the beds are registered pursuant to section 32307
3701.07 of the Revised Code as long-term care beds, the beds are 32308
subject to sections 3721.50 to 3721.58 of the Revised Code. 32309

~~(F) The public health council shall adopt rules authorizing 32310
the creation of one or more nursing home placement clearinghouses. 32311
Any public or private agency or facility may apply to the 32312
department of health to serve as a nursing home placement 32313
clearinghouse, and the rules shall provide the procedure for 32314
application and process for designation of clearinghouses. 32315~~

~~The department may approve one or more clearinghouses, but in 32316
no event shall there be more than one nursing home placement 32317
clearinghouse in each county. Any nursing home may list with a 32318
nursing home placement clearinghouse the services it provides and 32319
the types of patients it is approved for and equipped to serve. 32320
The clearinghouse shall make reasonable efforts to update its 32321
information at least every six months. 32322~~

~~If an appropriate clearinghouse has been designated, each 32323
hospital granted a certificate of need after August 5, 1989, to 32324
recategorize hospital beds as skilled nursing beds shall, and any 32325
other hospital may, utilize the nursing home placement 32326
clearinghouse prior to admitting a patient to a skilled nursing 32327
bed within the hospital and prior to keeping a patient in a 32328
skilled nursing bed within a hospital in excess of thirty days. 32329~~

~~The department shall provide at least annually to all 32330
hospitals a list of the designated nursing home placement 32331
clearinghouses. 32332~~

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.

On acceptance of a revised application, the director shall continue to review the application as revised in accordance with section 3702.52 of the Revised Code to determine whether it is complete and, if necessary and regardless of whether the director previously made two requests for additional information, may make a final written request to the applicant for additional information not later than thirty days after the date the director accepts the revised application.

Sec. ~~3702.524~~ 3702.523. (A) Except as provided in division 32364
(B) of this section, a certificate of need ~~granted on or after~~ 32365
~~April 20, 1995,~~ is not transferable prior to the completion of the 32366
reviewable activity for which it was granted. If any person 32367
holding a certificate of need ~~issued on or after that date~~ 32368
transfers the certificate of need to another person before the 32369
reviewable activity is completed, or enters into an agreement that 32370
contemplates the transfer of the certificate of need on the 32371
completion of the reviewable activity, the certificate of need is 32372
void. If the controlling interest in an entity that holds a 32373
certificate of need ~~issued on or after that date~~ is transferred 32374
prior to the completion of the reviewable activity, the 32375
certificate of need is void. 32376

(B) Division (A) of this section does not prohibit the 32377
transfer of a certificate of need ~~issued on or after April 20,~~ 32378
~~1995,~~ between affiliated or related persons, as defined in rules 32379
adopted under section 3702.57 of the Revised Code, if the transfer 32380
does not result in a change in the person that holds the ultimate 32381
controlling interest, as defined in the rules, in the certificate 32382
of need. 32383

The transfer of a ~~health~~ long-term care facility after the 32384
completion of a reviewable activity for which a certificate of 32385
need was issued ~~on or after April 20, 1995,~~ is not a transfer of 32386
the certificate of need, unless the facility is transferred 32387
pursuant to an agreement entered into prior to the completion of 32388
the reviewable activity. 32389

Sec. ~~3702.525~~ 3702.524. (A) Not later than twenty-four months 32390
after the date the director of health mails the notice that the 32391
certificate of need has been granted or, if the grant or denial of 32392
the certificate of need is appealed under section 3702.60 of the 32393
Revised Code, not later than twenty-four months after issuance of 32394

an order granting the certificate that is not subject to further 32395
appeal, each person holding a certificate of need granted ~~on or~~ 32396
~~after April 20, 1995,~~ shall: 32397

(1) If the project for which the certificate of need was 32398
granted primarily involves construction and is to be financed 32399
primarily through external borrowing of funds, secure financial 32400
commitment for the stated purpose of developing the project and 32401
commence construction that continues uninterrupted except for 32402
interruptions or delays that are unavoidable due to reasons beyond 32403
the person's control, including labor strikes, natural disasters, 32404
material shortages, or comparable events; 32405

(2) If the project for which the certificate of need was 32406
granted primarily involves construction and is to be financed 32407
primarily internally, receive formal approval from the holder's 32408
board of directors or trustees or other governing authority to 32409
commit specified funds for implementation of the project and 32410
commence construction that continues uninterrupted except for 32411
interruptions or delays that are unavoidable due to reasons beyond 32412
the person's control, including labor strikes, natural disasters, 32413
material shortages, or comparable events; 32414

~~(3) If the project for which the certificate of need was 32415
granted primarily involves acquisition of medical equipment, enter 32416
into a contract to purchase or lease the equipment and to accept 32417
the equipment at the site for which the certificate was granted; 32418~~

~~(4)~~ If the project for which the certificate of need was 32419
granted involves no capital expenditure or only minor renovations 32420
to existing structures, provide the health long-term care service 32421
~~or activity~~ by the means specified in the approved application for 32422
the certificate; 32423

~~(5)~~(4) If the project for which the certificate of need was 32424
granted primarily involves leasing a building or space that 32425

requires only minor renovations to the existing space, execute a 32426
lease and provide the health long-term care service ~~or activity~~ by 32427
the means specified in the approved application for the 32428
certificate; 32429

~~(6)~~(5) If the project for which the certificate of need was 32430
granted primarily involves leasing a building or space that has 32431
not been constructed or requires substantial renovations to 32432
existing space, commence construction for the purpose of 32433
implementing the reviewable activity that continues uninterrupted 32434
except for interruptions or delays that are unavoidable due to 32435
reasons beyond the person's control, including labor strikes, 32436
natural disasters, material shortages, or comparable events. 32437

(B) The twenty-four-month period specified in division (A) of 32438
this section shall not be extended by any means, including the 32439
granting of a subsequent or replacement certificate of need. Each 32440
person holding a certificate of need ~~granted on or after April 20,~~ 32441
~~1995,~~ shall provide the director of health documentation of 32442
compliance with that division not later than the earlier of thirty 32443
days after complying with that division or five days after the 32444
twenty-four-month period expires. Not later than the earlier of 32445
fifteen days after receiving the documentation or fifteen days 32446
after the twenty-four-month period expires, the director shall 32447
send by certified mail a notice to the holder of the certificate 32448
of need specifying whether the holder has complied with division 32449
(A) of this section. 32450

(C) ~~Notwithstanding division (B) of this section, the~~ 32451
~~twenty four month period specified in division (A) of this section~~ 32452
~~shall be extended for an additional twenty four months for any~~ 32453
~~certificate of need granted for the purchase and relocation of~~ 32454
~~licensed nursing home beds on February 26, 1999.~~ 32455

~~(D)~~ A certificate of need ~~granted on or after April 20, 1995,~~ 32456
expires, regardless of whether the director sends a notice under 32457

division (B) of this section, if the holder fails to comply with 32458
division (A) ~~or (C)~~ of this section or to provide information 32459
under division (B) of this section as necessary for the director 32460
to determine compliance. The determination by the director that a 32461
certificate of need has expired is final and not appealable under 32462
Chapter 119. of the Revised Code. 32463

Sec. ~~3702.526~~ 3702.525. Every six months after complying with 32464
section ~~3702.525~~ 3702.524 of the Revised Code, the holder of the 32465
certificate of need shall demonstrate to the director of health, 32466
in the form and manner required by rules adopted under section 32467
3702.57 of the Revised Code, that reasonable progress is being 32468
made toward the completion of the reviewable activity. If the 32469
director determines, in accordance with standards specified in the 32470
rules, that reasonable progress is not being made, ~~he~~ the director 32471
shall withdraw the certificate of need. 32472

Sec. 3702.526. (A) Except as provided in division (B) of this 32473
section, the director of health shall accept an application for a 32474
replacement certificate of need for an activity described in 32475
division (A)(5) of section 3702.511 of the Revised Code to replace 32476
an approved certificate of need for that activity if all of the 32477
following conditions are met: 32478

(1) The applicant is the same as the applicant for the 32479
approved certificate of need or an affiliated or related person as 32480
described in division (B) of section 3702.523 of the Revised Code. 32481

(2) The source of any long-term care beds to be relocated is 32482
the same as in the approved certificate of need. 32483

(3) The application for the approved certificate of need was 32484
not subject to comparative review under section 3702.593 of the 32485
Revised Code. 32486

(B) The director shall not accept an application for a 32487

replacement certificate that proposes to increase the number of 32488
long-term care beds to be relocated specified in the application 32489
for the approved certificate of need. 32490

(C) For the purpose of determining whether long-term care 32491
beds are from an existing long-term care facility, the director 32492
shall consider the date of filing of the application for a 32493
replacement certificate to be the same as the date of filing of 32494
the original application for the approved certificate of need. 32495

(D) Any long-term care beds that were approved in the 32496
approved certificate of need remain approved in the application 32497
for a replacement certificate. 32498

(E) The applicant shall submit with the application for a 32499
replacement certificate a nonrefundable fee equal to the 32500
application fee for the approved certificate of need. 32501

(F) Upon approval of the application for a replacement 32502
certificate, the original certificate of need is automatically 32503
voided. 32504

Sec. 3702.527. A bed described in division (O)(5) of section 32505
3702.51 of the Revised Code may be converted to a bed described in 32506
division (O)(1), (2), (3), or (4) of that section only as provided 32507
in the certificate of need under which the beds were approved or 32508
its replacement certificate of need. 32509

Sec. 3702.53. (A) No person shall carry out any reviewable 32510
activity unless a certificate of need for such activity has been 32511
granted under sections 3702.51 to 3702.62 of the Revised Code or 32512
the person is exempted by division ~~(S)~~(B) of section ~~3702.51~~ 32513
~~3702.511~~ or section ~~3702.5210~~ or 3702.62 of the Revised Code from 32514
the requirement that a certificate of need be obtained. No person 32515
shall carry out any reviewable activity if a certificate of need 32516
authorizing that activity has been withdrawn by the director of 32517

health under section 3702.52 or ~~3702.526~~ 3702.525 of the Revised Code. No person shall carry out a reviewable activity if the certificate of need authorizing that activity is void pursuant to section ~~3702.524~~ 3702.523 of the Revised Code or has expired pursuant to section ~~3702.525~~ 3702.524 of the Revised Code.

(B) No person shall separate portions of any proposal for any reviewable activity to evade the requirements of sections 3702.51 to 3702.62 of the Revised Code.

(C) No person granted a certificate of need shall carry out the reviewable activity authorized by the certificate of need other than in substantial accordance with the approved application for the certificate of need.

Sec. 3702.531. The director of health shall evaluate and may investigate evidence that appears to demonstrate that any person has violated section 3702.53 of the Revised Code. If the director elects to conduct an investigation, ~~he~~ the director shall mail to the alleged violator by certified mail, return receipt requested, a notice that an investigation is underway.

When conducting an investigation under this section, the director may request any relevant information pertaining to the alleged violation, including the total operating cost of the activity in question during the period of the alleged violation and the total capital cost associated with implementation of the activity. A person shall provide information requested by the director not later than forty-five days after receiving the director's request. The director also may issue and enforce, in the manner provided in Chapter 119. of the Revised Code, subpoenas duces tecum to compel the production of documents relevant to the alleged violation. The subpoenas may be served in any manner authorized by the rules of civil procedure.

The director or ~~his~~ the director's designee, ~~which may~~

~~include a health service agency,~~ may conduct a site visit to 32549
investigate an alleged violation of section 3702.53 of the Revised 32550
Code. 32551

Each investigation under this section shall be conducted in a 32552
manner that protects patient confidentiality. Names or other 32553
identifying information about any patient shall not be made public 32554
without the written consent of the patient or ~~his~~ the patient's 32555
guardian, or, if the patient is a minor, ~~his~~ the patient's parent 32556
or guardian. 32557

Sec. 3702.54. Except as provided in section 3702.541 of the 32558
Revised Code, divisions (A) and (B) of this section apply when the 32559
director of health determines that a person has violated section 32560
3702.53 of the Revised Code. 32561

(A) The director shall impose a civil penalty on the person 32562
in an amount equal to the greatest of the following: 32563

(1) Three thousand dollars; 32564

(2) Five per cent of the operating cost of the activity that 32565
constitutes the violation during the period of time it was 32566
conducted in violation of section 3702.53 of the Revised Code; 32567

(3) If a certificate of need was granted, two per cent of the 32568
total approved capital cost associated with implementation of the 32569
activity for which the certificate of need was granted. 32570

In no event, however, shall the penalty exceed two hundred 32571
fifty thousand dollars. 32572

(B)(1) Notwithstanding section 3702.52 of the Revised Code, 32573
the director shall refuse to accept for review any application for 32574
a certificate of need filed by or on behalf of the person, or any 32575
successor to the person or entity related to the person, for a 32576
period of not less than one year and not more than three years 32577
after the director mails the notice of the director's 32578

determination under section 3702.532 of the Revised Code or, if 32579
the determination is appealed under section 3702.60 of the Revised 32580
Code, the issuance of the order upholding the determination that 32581
is not subject to further appeal. In determining the length of 32582
time during which applications will not be accepted, the director 32583
may consider any of the following: 32584

(a) The nature and magnitude of the violation; 32585

(b) The ability of the person to have averted the violation; 32586

(c) Whether the person disclosed the violation to the 32587
director before the director commenced his investigation; 32588

(d) The person's history of compliance with sections 3702.51 32589
to 3702.62 and the rules adopted under section 3702.57 of the 32590
Revised Code; 32591

(e) Any community hardship that may result from refusing to 32592
accept future applications from the person. 32593

(2) Notwithstanding the one-year minimum imposed by division 32594
(B)(1) of this section, the director may establish a period of 32595
less than one year during which the director will refuse to accept 32596
certificate of need applications if, after reviewing all 32597
information available to the director, the director determines and 32598
expressly indicates in the notice mailed under section 3702.532 of 32599
the Revised Code that refusing to accept applications for a longer 32600
period would result in hardship to the community in which the 32601
person provides ~~health~~ long-term care services. The director's 32602
finding of community hardship shall not affect the granting or 32603
denial of any future certificate of need application filed by the 32604
person. 32605

Sec. 3702.55. A person that the director of health determines 32606
has violated section 3702.53 of the Revised Code shall cease 32607
conducting the activity that constitutes the violation or 32608

utilizing the ~~equipment~~ or facility resulting from the violation 32609
not later than thirty days after the person receives the notice 32610
mailed under section 3702.532 of the Revised Code or, if the 32611
person appeals the director's determination under section 3702.60 32612
of the Revised Code, thirty days after the person receives an 32613
order upholding the director's determination that is not subject 32614
to further appeal. 32615

If any person determined to have violated section 3702.53 of 32616
the Revised Code fails to cease conducting an activity or using 32617
~~equipment~~ or a facility as required by this section or if the 32618
person continues to seek payment or reimbursement for services 32619
rendered or costs incurred in conducting the activity as 32620
prohibited by section 3702.56 of the Revised Code, in addition to 32621
the penalties imposed under section 3702.54 or 3702.541 of the 32622
Revised Code: 32623

(A) The director of health may refuse to include any beds 32624
involved in the activity in the bed capacity of a hospital for 32625
purposes of registration under section 3701.07 of the Revised 32626
Code; 32627

(B) The director of health may refuse to license, or may 32628
revoke a license or reduce bed capacity previously granted to, a 32629
hospice care program under section 3712.04 of the Revised Code; a 32630
nursing home, ~~rest home~~ residential care facility, or home for the 32631
aging under section 3721.02 of the Revised Code; or any beds 32632
within any of those facilities that are involved in the activity; 32633

(C) A political subdivision certified under section 3721.09 32634
of the Revised Code may refuse to license, or may revoke a license 32635
or reduce bed capacity previously granted to, a nursing home, ~~rest~~ 32636
~~home~~ residential care facility, or home for the aging, or any beds 32637
within any of those facilities that are involved in the activity; 32638

(D) The director of mental health may refuse to license under 32639

section 5119.20 of the Revised Code, or may revoke a license or 32640
reduce bed capacity previously granted to, a hospital receiving 32641
mentally ill persons or beds within such a hospital that are 32642
involved in the activity; 32643

(E) The department of job and family services may refuse to 32644
enter into a provider agreement that includes a facility, beds, or 32645
services that result from the activity. 32646

Sec. 3702.56. No third-party payer or other person ~~or~~ 32647
~~government entity~~ is required to pay, and no person shall seek or 32648
accept payment or reimbursement for, any service rendered or costs 32649
incurred in conducting an activity during the period of time in 32650
which the activity was conducted in violation of section 3702.53 32651
of the Revised Code. Each person that accepts any amount in 32652
violation of this division shall refund that amount on request of 32653
the person ~~or government entity~~ that paid it. 32654

Sec. 3702.57. (A) The ~~public~~ director of health ~~council~~ shall 32655
adopt rules establishing procedures and criteria for reviews of 32656
applications for certificates of need and issuance, denial, or 32657
withdrawal of certificates. 32658

(1) In adopting rules that establish criteria for reviews of 32659
applications of certificates of need, the ~~council~~ director shall 32660
consider the availability of and need for long-term care beds to 32661
provide care and treatment to persons diagnosed as having 32662
traumatic brain injuries and shall prescribe criteria for 32663
reviewing applications that propose to add long-term care beds to 32664
provide care and treatment to persons diagnosed as having 32665
traumatic brain injuries. 32666

(2) The criteria for reviews of applications for certificates 32667
of need shall relate to the need for the reviewable activity and 32668
shall pertain to all of the following matters: 32669

(a) The impact of the reviewable activity on the cost and 32670
quality of ~~health~~ long-term care services in the relevant 32671
~~geographic~~ service area, including, but not limited, to the 32672
historical and projected utilization of the services to which the 32673
application pertains and the effect of the reviewable activity on 32674
utilization of other providers of similar services; 32675

(b) The quality of the services to be provided as the result 32676
of the activity, as evidenced by the historical performance of the 32677
persons that will be involved in providing the services and by the 32678
provisions that are proposed in the application to ensure quality, 32679
including but not limited to adequate available personnel, 32680
available ancillary and support services, available equipment, 32681
size and configuration of physical plant, and relations with other 32682
providers; 32683

(c) The impact of the reviewable activity on the availability 32684
and accessibility of the type of services proposed in the 32685
application to the population of the relevant ~~geographic~~ service 32686
area, and the level of access to the services proposed in the 32687
application that will be provided to medically underserved 32688
individuals such as recipients of public assistance and 32689
individuals who have no health insurance or whose health insurance 32690
is insufficient; 32691

(d) The activity's short- and long-term financial feasibility 32692
and cost-effectiveness, the impact of the activity on the 32693
applicant's costs and charges, and a comparison of the applicant's 32694
costs and charges with those of providers of similar services in 32695
the applicant's proposed service area; 32696

(e) The advantages, disadvantages, and costs of alternatives 32697
to the reviewable activity; 32698

(f) The impact of the activity on all other providers of 32699
similar services in the ~~health service area or other~~ relevant 32700

~~geographic~~ service area, including the impact on their 32701
utilization, market share, and financial status; 32702

(g) The historical performance of the applicant and related 32703
or affiliated parties in complying with previously granted 32704
certificates of need and any applicable certification, 32705
accreditation, or licensure requirements; 32706

~~(h) The relationship of the activity to the current edition 32707
of the state health resources plan issued under section 3702.521 32708
of the Revised Code; 32709~~

~~(i)~~ The historical performance of the applicant and related 32710
or affiliated parties in providing cost-effective health long-term 32711
care services; 32712

~~(j)~~(i) The special needs and circumstances of the applicant 32713
or population proposed to be served by the proposed project, 32714
including research activities, prevalence of particular diseases, 32715
unusual demographic characteristics, cost-effective contractual 32716
affiliations, and other special circumstances; 32717

~~(k)~~(j) The appropriateness of the zoning status of the 32718
proposed site of the activity; 32719

~~(l)~~(k) The participation by the applicant in research 32720
conducted by the United States food and drug administration or 32721
clinical trials sponsored by the national institutes of health. 32722

(3) The criteria for reviews of applications shall include a 32723
formula for determining each county's long-term care bed need for 32724
purposes of section 3702.593 of the Revised Code and may include 32725
other formulas for determining need for beds. 32726

Any rules prescribing criteria that establish ratios of beds 32727
to population shall specify the bases for establishing the ratios 32728
or mitigating factors or exceptions to the ratios. 32729

(B) The ~~council~~ director shall adopt rules specifying all of 32730

| | |
|--|--|
| the following: | 32731 |
| (1) Information that must be provided in applications for certificates of need; | 32732 32733 |
| (2) Procedures for reviewing applications for completeness of information; | 32734 32735 |
| (3) Criteria for determining that the application is complete. | 32736 32737 |
| (C) The council <u>director</u> shall adopt rules specifying requirements that holders of certificates of need must meet in order for the certificates to remain valid and establishing definitions and requirements for obligation of capital expenditures and implementation of projects authorized by certificates of need. | 32738 32739 32740 32741 32742 32743 |
| (D) The council <u>director</u> shall adopt rules establishing criteria and procedures under which the director of health may withdraw a certificate of need if the holder fails to meet requirements for continued validity of the certificate. | 32744 32745 32746 32747 |
| (E) The council <u>director</u> shall adopt rules establishing procedures under which the department of health shall monitor project implementation activities of holders of certificates of need. The rules adopted under this division also may establish procedures for monitoring implementation activities of persons that have received nonreviewability rulings. | 32748 32749 32750 32751 32752 32753 |
| (F) The council <u>director</u> shall adopt rules establishing procedures under which the director of health shall review certificates of need whose holders exceed or appear likely to exceed an expenditure maximum specified in a certificate. | 32754 32755 32756 32757 |
| (G) The council <u>director</u> shall adopt rules establishing certificate of need application fees sufficient to pay the costs incurred by the department for administering sections 3702.51 to | 32758 32759 32760 |

3702.62 of the Revised Code ~~and to pay health service agencies for~~ 32761
~~the functions they perform under division (D)(5) of section~~ 32762
~~3702.58 of the Revised Code.~~ Unless rules are adopted under this 32763
division establishing different application fees, the application 32764
fee for a project not involving a capital expenditure shall be 32765
three thousand dollars and the application fee for a project 32766
involving a capital expenditure shall be nine-tenths of one per 32767
cent of the capital expenditure proposed subject to a minimum of 32768
three thousand dollars and a maximum of twenty thousand dollars. 32769

(H) The ~~council~~ director shall adopt rules specifying 32770
information that is necessary to conduct reviews of certificate of 32771
need applications and to develop ~~recommendations for~~ criteria for 32772
reviews that ~~health long-term~~ care facilities ~~and other health~~ 32773
~~care providers~~ are to submit to the director under division ~~(G)~~(H) 32774
of section 3702.52 of the Revised Code. 32775

(I) The ~~council~~ director shall adopt rules defining 32776
"affiliated person," "related person," and "ultimate controlling 32777
interest" for purposes of section ~~3702.524~~ 3702.523 of the Revised 32778
Code. 32779

(J) The ~~council~~ director shall adopt rules prescribing 32780
requirements for holders of certificates of need to demonstrate to 32781
the director under section ~~3702.526~~ 3702.525 of the Revised Code 32782
that reasonable progress is being made toward completion of the 32783
reviewable activity and establishing standards by which the 32784
director shall determine whether reasonable progress is being 32785
made. 32786

(K) The ~~public health council~~ director shall adopt all rules 32787
under divisions (A) to (J) of this section in accordance with 32788
Chapter 119. of the Revised Code. The ~~council~~ director may adopt 32789
other rules as necessary to carry out the purposes of sections 32790
3702.51 to 3702.62 of the Revised Code. 32791

Sec. 3702.59. (A) The director of health shall accept for review certificate of need applications as provided in sections 3702.592, 3702.593, and 3702.594 of the Revised Code.

(B)(1) The director shall not approve an application for a certificate of need for the addition of long-term care beds to an existing ~~health~~ long-term care facility or for the development of a new ~~health~~ long-term care facility if any of the following apply:

(a) The existing ~~health~~ long-term care facility in which the beds are being placed has one or more waivers for life safety code deficiencies, one or more state fire code violations, or one or more state building code violations, and the project identified in the application does not propose to correct all life safety code deficiencies for which a waiver has been granted, all state fire code violations, and all state building code violations at the existing ~~health~~ long-term care facility in which the beds are being placed;

(b) During the sixty-month period preceding the filing of the application, a notice of proposed license revocation was issued under section 3721.03 of the Revised Code for the existing ~~health~~ long-term care facility in which the beds are being placed or a nursing home owned or operated by the applicant or a principal participant.

(c) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing ~~health~~ long-term care facility in which the beds are being placed, any of the following occurred:

(i) The facility was cited on three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies.

(ii) The facility was cited on two or more separate occasions for final, nonappealable immediate jeopardy deficiencies. (ii) The facility was cited on two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency. (d) More than two nursing homes owned or operated in this state by the applicant or a principal participant or, if the applicant or a principal participant owns or operates more than twenty nursing homes in this state, more than ten per cent of those nursing homes, were each cited during the period that precedes the filing of the application for the certificate of need and is encompassed by the three most recent standard surveys of the nursing homes that were so cited in any of the following manners: (i) On three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies; (ii) On two or more separate occasions for final, nonappealable immediate jeopardy deficiencies; (iii) On two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency. (2) In applying divisions (B)(1)(a) to (d) of this section, the director shall not consider deficiencies or violations cited before the applicant or a principal participant acquired or began to own or operate the ~~health~~ long-term care facility at which the deficiencies or violations were cited. The director may disregard deficiencies and violations cited after the ~~health~~ long-term care facility was acquired or began to be operated by the applicant or a principal participant if the deficiencies or violations were attributable to circumstances that arose under the previous owner

or operator and the applicant or principal participant has 32853
implemented measures to alleviate the circumstances. In the case 32854
of an application proposing development of a new ~~health~~ long-term 32855
care facility by relocation of beds, the director shall not 32856
consider deficiencies or violations that were solely attributable 32857
to the physical plant of the existing ~~health~~ long-term care 32858
facility from which the beds are being relocated. 32859

(C) The director also shall accept for review any application 32860
for the conversion of infirmary beds to long-term care beds if the 32861
infirmary meets all of the following conditions: 32862

(1) Is operated exclusively by a religious order; 32863

(2) Provides care exclusively to members of religious orders 32864
who take vows of celibacy and live by virtue of their vows within 32865
the orders as if related; 32866

(3) Was providing care exclusively to members of such a 32867
religious order on January 1, 1994. 32868

(D) Notwithstanding division (C)(2) of this section, a 32869
facility that has been granted a certificate of need under 32870
division (C) of this section may provide care to any of the 32871
following family members of the individuals described in division 32872
(C)(2) of this section: mothers, fathers, brothers, sisters, 32873
brothers-in-law, sisters-in-law, or children. 32874

The long-term care beds in a facility that have been granted 32875
a certificate of need under division (C) of this section may not 32876
be relocated pursuant to sections 3702.592 to 3702.594 of the 32877
Revised Code. 32878

Sec. 3702.592. (A) The director of health shall accept, for 32879
review under section 3702.52 of the Revised Code, certificate of 32880
need applications for any of the following purposes if the 32881
proposed increase in beds is attributable ~~solely~~ to a replacement 32882

or relocation of existing beds from an existing ~~health~~ long-term care facility within the same county: 32883
32884

(1) Approval of beds in a new ~~health~~ long-term care facility 32885
or an increase of beds in an existing ~~health~~ long-term care 32886
facility if the beds are proposed to be licensed as nursing home 32887
beds under Chapter 3721. of the Revised Code; 32888

(2) Approval of beds in a new county home or new county 32889
nursing home, or an increase of beds in an existing county home or 32890
existing county nursing home if the beds are proposed to be 32891
certified as skilled nursing facility beds under the medicare 32892
program, Title XVIII of the "Social Security Act," 49 Stat. 286 32893
(1965), 42 U.S.C. 1395, as amended, or nursing facility beds under 32894
the medicaid program, Title XIX of the "Social Security Act," 49 32895
Stat. 286 (1965), 42 U.S.C. 1396, as amended; 32896

(3) An increase of hospital beds registered pursuant to 32897
section 3701.07 of the Revised Code as long-term care beds; 32898

(4) An increase of hospital beds registered pursuant to 32899
section 3701.07 of the Revised Code as special skilled nursing 32900
beds that were originally authorized by and are operated in 32901
accordance with section ~~3702.522~~ 3702.521 of the Revised Code. 32902

(B) The director shall accept applications described in 32903
division (A) of this section at any time. 32904

Sec. 3702.593. (A) At the times specified in this section, 32905
the director of health shall accept, for review under section 32906
3702.52 of the Revised Code, certificate of need applications for 32907
any of the following purposes if the proposed increase in beds is 32908
attributable solely to relocation of existing beds from an 32909
existing ~~health~~ long-term care facility in a county with excess 32910
beds to a ~~health~~ long-term care facility in a county in which 32911
there are fewer long-term care beds than the county's bed need: 32912

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| (1) Approval of beds in a new health <u>long-term</u> care facility | 32913 |
| or an increase of beds in an existing health <u>long-term</u> care | 32914 |
| facility if the beds are proposed to be licensed as nursing home | 32915 |
| beds under Chapter 3721. of the Revised Code; | 32916 |
| (2) Approval of beds in a new county home or new county | 32917 |
| nursing home, or an increase of beds in an existing county home or | 32918 |
| existing county nursing home if the beds are proposed to be | 32919 |
| certified as skilled nursing facility beds under the medicare | 32920 |
| program, Title XVIII of the "Social Security Act," 49 Stat. 286 | 32921 |
| (1965), 42 U.S.C. 1395, as amended, or nursing facility beds under | 32922 |
| the medicaid program, Title XIX of the "Social Security Act," 49 | 32923 |
| Stat. 286 (1965), 42 U.S.C. 1396, as amended; | 32924 |
| (3) An increase of hospital beds registered pursuant to | 32925 |
| section 3701.07 of the Revised Code as long-term care beds. | 32926 |
| (B) For the purpose of implementing this section, the | 32927 |
| director shall do all of the following: | 32928 |
| (1) Determine <u>Not later than April 1, 2012, and every four</u> | 32929 |
| <u>years thereafter, determine</u> the long-term care bed supply for each | 32930 |
| county, which shall consist of all of the following: | 32931 |
| (a) Nursing home beds licensed under Chapter 3721. of the | 32932 |
| Revised Code; | 32933 |
| (b) Beds certified as skilled nursing facility beds under the | 32934 |
| medicare program or nursing facility beds under the medicaid | 32935 |
| program; | 32936 |
| (c) <u>Beds in any portion of a hospital that are properly</u> | 32937 |
| <u>registered under section 3701.07 of the Revised Code as skilled</u> | 32938 |
| <u>nursing beds, long-term care beds, or special skilled nursing</u> | 32939 |
| <u>beds;</u> | 32940 |
| (d) Beds in a county home or county nursing home that are | 32941 |
| certified under section 5155.38 of the Revised Code as having been | 32942 |

in operation on July 1, 1993, and are eligible for licensure as 32943
nursing home beds; 32944

~~(d)(e) Beds held as approved long term care beds under a 32945
certificate of need approved by the director described in division 32946
(O)(5) of section 3702.51 of the Revised Code. 32947~~

(2) Determine the long-term care bed occupancy rate for the 32948
state at the time the determination is made; 32949

(3) For each county, determine the county's bed need by 32950
identifying the number of long-term care beds that would be needed 32951
in the county in order for the statewide occupancy rate for a 32952
projected population aged sixty-five and older to be ninety per 32953
cent. 32954

In determining each county's bed need, the director shall use 32955
the formula developed in rules adopted under section 3702.57 of 32956
the Revised Code. ~~The director's first determination after the 32957
effective date of this section shall be made not later than April 32958
1, 2010. The second determination shall be made not later than 32959
April 1, 2012. Thereafter, a~~ A determination shall be made every 32960
four years. After each determination is made, the director shall 32961
publish the county's bed need on the web site maintained by the 32962
department of health. 32963

(C) The director's consideration of a certificate of need 32964
that would increase the number of beds in a county shall be 32965
consistent with the county's bed need determined under division 32966
(B) of this section except as follows: 32967

(1) If a county's occupancy rate is less than eighty-five per 32968
cent, the county shall be considered to have no need for 32969
additional beds. 32970

(2) Even if a county is determined not to need any additional 32971
long-term care beds, the director may approve an increase in beds 32972
equal to up to ten per cent of the county's bed supply if the 32973

county's occupancy rate is greater than ninety per cent. 32974

(D)(1) ~~Applications made under this section shall be subject~~ 32975
~~to comparative review.~~ The review period for the first ~~comparative~~ 32976
review process ~~after the effective date of this section~~ shall 32977
begin July 1, 2010, and end June 30, 2012. The next review period 32978
shall begin July 1, 2012, and end June 30, 2016. Thereafter, the 32979
review period for each comparative review process shall begin on 32980
the first day of July following the end of the previous review 32981
period and shall be four years. 32982

(2) Certificate of need applications shall be accepted during 32983
the first month of the review period and reviewed ~~from the first~~ 32984
~~day of the review period~~ through the thirtieth day of April of the 32985
following year. 32986

(3) Except for the first review period after ~~the effective~~ 32987
~~date of this section~~ October 16, 2009, each review period may 32988
consist of two phases. The first phase of the review period shall 32989
be the period during which the director accepts and reviews 32990
certificate of need applications as provided in division (D)(2) of 32991
this section. If the director determines that there will be 32992
acceptance and review of additional certificate of need 32993
applications, the second phase of the review period shall begin on 32994
the first day of July of the third year of the review period. The 32995
second phase shall be limited to acceptance and review of 32996
applications for redistribution of beds made available pursuant to 32997
division ~~(G)(2)(I)~~ (I) of this section. During the period between the 32998
first and second phases of the review period, the director shall 32999
act in accordance with division ~~(H)(I)~~ (I) of this section. 33000

(E) The director shall consider certificate of need 33001
applications in accordance with all of the following: 33002

(1) The number of beds approved for a county shall include 33003
only beds available for relocation from another county and shall 33004

not exceed the bed need of the receiving county; 33005

(2) The director shall consider the existence of community 33006
resources serving persons who are age sixty-five or older or 33007
disabled that are demonstrably effective in providing alternatives 33008
to long-term care facility placement. 33009

(3) The director shall approve relocation of beds from a 33010
county only if, after the relocation, the number of beds remaining 33011
in the county will exceed the county's bed need by at least one 33012
hundred beds; 33013

(4) The director shall approve relocation of beds from a 33014
~~health~~ long-term care facility only if, after the relocation, the 33015
number of beds in the facility's service area is at least equal to 33016
the state bed need rate. For purposes of this division, a 33017
facility's service area shall be either of the following: 33018

(a) The census tract in which the facility is located, if the 33019
facility is located in an area designated by the United States 33020
secretary of health and human services as a health professional 33021
shortage area under the "Public Health Service Act," 88 Stat. 682 33022
(1944), 42 U.S.C. 254(e), as amended; 33023

(b) The area that is within a fifteen-mile radius of the 33024
facility's location, if the facility is not located in a health 33025
professional shortage area. 33026

(F) Applications made under this section are subject to 33027
comparative review if two or more applications are submitted 33028
during the same review period and any of the following applies: 33029

(1) The applications propose to relocate beds from the same 33030
county and the number of beds for which certificates of need are 33031
being requested totals more than the number of beds available in 33032
the county from which the beds are to be relocated. 33033

(2) The applications propose to relocate beds to the same 33034

county and the number of beds for which certificates of need are 33035
being requested totals more than the number of beds needed in the 33036
county to which the beds are to be relocated. 33037

(3) The applications propose to relocate beds from the same 33038
service area and the number of beds left in the service area from 33039
which the beds are being relocated would be less than the state 33040
bed need rate determined by the director. 33041

(G) In determining which applicants should receive preference 33042
in the comparative review process, the director shall consider all 33043
of the following as weighted priorities: 33044

(1) Whether the beds will be part of a continuing care 33045
retirement community; 33046

(2) Whether the beds will serve an underserved population, 33047
such as low-income individuals, individuals with disabilities, or 33048
individuals who are members of racial or ethnic minority groups; 33049

(3) Whether the project in which the beds will be included 33050
will provide alternatives to institutional care, such as adult 33051
day-care, home health care, respite or hospice care, mobile meals, 33052
residential care, independent living, or congregate living 33053
services; 33054

(4) Whether the ~~health~~ long-term care facility's owner or 33055
operator will participate in medicaid waiver programs for 33056
alternatives to institutional care; 33057

(5) Whether the project in which the beds will be included 33058
will reduce alternatives to institutional care by converting 33059
residential care beds or other alternative care beds to long-term 33060
care beds; 33061

(6) Whether the facility in which the beds will be placed has 33062
positive resident and family satisfaction surveys; 33063

(7) Whether the facility in which the beds will be placed has 33064

fewer than fifty long-term care beds; 33065

(8) Whether the ~~health~~ long-term care facility in which the 33066
beds will be placed is located within the service area of a 33067
hospital and is designed to accept patients for rehabilitation 33068
after an in-patient hospital stay; 33069

(9) Whether the ~~health~~ long-term care facility in which the 33070
beds will be placed is or proposes to become a nurse aide training 33071
and testing site; 33072

(10) The rating, under the centers for medicare and medicaid 33073
services' five star nursing home quality rating system, of the 33074
~~health~~ long-term care facility in which the beds will be placed. 33075

~~(G)(1) When a certificate of need application is approved 33076
during the initial phase of a four year review period, on 33077
completion of the project under which the beds are relocated, that 33078
number of beds shall cease to be operated in the health care 33079
facility from which they were relocated and, if the licensure or 33080
certification of those beds cannot be or is not transferred to the 33081
facility to which the beds are relocated, the licensure or 33082
certification shall be surrendered. 33083~~

~~(2) In (H) A person who has submitted an application under 33084
this section that is not subject to comparative review may revise 33085
the site of the proposed project pursuant to section 3702.522 of 33086
the Revised Code. 33087~~

(I) When a certificate of need application is approved during 33088
the initial phase of a four-year review period, in addition to the 33089
actions required by division ~~(G)(1)~~(D) of ~~this~~ section 3702.52 of 33090
the Revised Code, the ~~health~~ long-term care facility from which 33091
the beds were relocated shall reduce the number of beds operated 33092
in the facility by a number of beds equal to at least ten per cent 33093
of the number of beds relocated ~~and shall surrender the licensure 33094
or certification of those beds. If these beds are in a home 33095~~

licensed under Chapter 3721. of the Revised Code, the long-term 33096
care facility shall have the beds removed from the license. If the 33097
beds are in a facility that is certified as a skilled nursing 33098
facility or nursing facility under Title XVIII or XIX of the 33099
"Social Security Act," the facility shall surrender the 33100
certification of these beds. If the beds are registered as skilled 33101
nursing beds or long-term care beds under section 3701.07 of the 33102
Revised Code, the long-term care facility shall surrender the 33103
registration for these beds. This reduction shall be made not 33104
later than the completion date of the project for which the beds 33105
were relocated. 33106

~~(H)~~(J)(1) Once approval of certificate of need applications 33107
in the first phase of a four-year review period is complete, the 33108
director shall make a new determination of the bed need for each 33109
county by reducing the county's bed need by the number of beds 33110
approved for relocation to the county. The new bed-need 33111
determination shall be made not later than the first day of April 33112
of the third year of the review period. 33113

(2) The director may publish on the department's web site the 33114
remaining bed need for counties that will be considered for 33115
redistribution of beds that, in accordance with division ~~(G)~~(2)~~(I)~~ 33116
of this section, have ceased or will cease to be operated. The 33117
director shall base the determination of whether to include a 33118
county on all of the following: 33119

(a) The statewide number of beds that, in accordance with 33120
division ~~(G)~~(2)~~(I)~~ of this section, have ceased or will cease to 33121
be operated; 33122

(b) The county's remaining bed need; 33123

(c) The county's bed occupancy rate. 33124

~~(I)~~(K) If the director publishes the remaining bed need for a 33125
county under division ~~(H)~~(J)(2) of this section, the director may, 33126

beginning on the first day of the second phase of the review 33127
period, accept certificate of need applications for redistribution 33128
to ~~health~~ long-term care facilities in that county of beds that 33129
have ceased or will cease operation in accordance with division 33130
(~~G~~)(~~2~~)(I) of this section. The total number of beds approved for 33131
redistribution in the second phase of a review period shall not 33132
exceed the number that have ceased or will cease operation in 33133
accordance with division (~~G~~)(~~2~~)(I) of this section. Beds that are 33134
not approved for redistribution during the second phase of a 33135
review period shall not be available for redistribution at any 33136
future time. 33137

Sec. 3702.594. (A) The director of health shall accept, for 33138
review under section 3702.52 of the Revised Code, certificate of 33139
need applications for an increase in beds in an existing nursing 33140
home if all of the following conditions are met: 33141

(1) The proposed increase is attributable solely to a 33142
relocation of licensed nursing home beds from an existing nursing 33143
home to another existing nursing home located in a county that is 33144
contiguous to the county from which the beds are to be relocated; 33145

(2) Not more than a total of thirty nursing home beds are 33146
proposed for relocation to the same existing nursing home 33147
regardless of the number of applications filed. Once the 33148
cumulative total of beds relocated under this section to a nursing 33149
home reaches thirty, no further applications under this section 33150
will be accepted until the period of monitoring specified in 33151
division (E) of section 3702.52 of the Revised Code of the most 33152
recent reviewable activity implemented under this section has 33153
expired; 33154

(3) After the proposed relocation, there will be existing 33155
nursing home beds remaining in the county from which the beds are 33156
relocated; 33157

(4) The beds are proposed to be licensed as nursing home beds 33158
under Chapter 3721. of the Revised Code. 33159

(B) The director shall accept applications described in 33160
division (A) of this section at any time. 33161

Sec. 3702.60. (A) Any affected person may appeal a 33162
reviewability ruling ~~issued on or after April 20, 1995,~~ to the 33163
director of health in accordance with Chapter 119. of the Revised 33164
Code, and the director shall provide an adjudication hearing in 33165
accordance with that chapter. An affected person may appeal the 33166
director's ruling in the adjudication hearing to the tenth 33167
district court of appeals. 33168

(B) The certificate of need applicant or another affected 33169
person may appeal to the director in accordance with Chapter 119. 33170
of the Revised Code a decision issued by the director ~~on or after~~ 33171
~~April 20, 1995,~~ to grant or deny a certificate of need application 33172
~~for which an adjudication hearing was not conducted under section~~ 33173
~~3702.52 of the Revised Code,~~ and the director shall provide an 33174
adjudication hearing in accordance with that chapter. The 33175
certificate of need applicant or other affected person that 33176
appeals the director's decision to grant or deny a certificate of 33177
need application must prove by a preponderance of the evidence 33178
that the director's decision is not in accordance with sections 33179
3702.52 to 3702.62 of the Revised Code or rules adopted under 33180
those sections. The certificate of need applicant or an affected 33181
person that was a party to and participated in an adjudication 33182
hearing conducted under this division ~~or section 3702.52 of the~~ 33183
~~Revised Code~~ may appeal to the tenth district court of appeals the 33184
decision issued by the director following the adjudication 33185
hearing. ~~No person may appeal to the director or a court the~~ 33186
~~director's granting of a certificate of need prior to June 30,~~ 33187
~~1995, under the version of section 3702.52 of the Revised Code in~~ 33188

~~effect immediately prior to that date due to failure to submit 33189~~
~~timely written objections, no person may appeal to the director or 33190~~
~~a court the director's granting of a certificate of need under 33191~~
~~division (C)(1) of section 3702.52 of the Revised Code. 33192~~

(C) The certificate of need holder may appeal to the director 33193
in accordance with Chapter 119. of the Revised Code a decision 33194
issued by the director under section 3702.52 or ~~3702.526~~ 3702.525 33195
of the Revised Code ~~on or after April 20, 1995,~~ to withdraw a 33196
certificate of need, and the director shall provide an 33197
adjudication hearing in accordance with that chapter. The person 33198
may appeal the director's ruling in the adjudication hearing to 33199
the tenth district court of appeals. 33200

(D) Any person determined by the director to have violated 33201
section 3702.53 of the Revised Code may appeal that determination, 33202
or the penalties imposed under section 3702.54 or 3702.541 of the 33203
Revised Code, to the director in accordance with Chapter 119. of 33204
the Revised Code, and the director shall provide an adjudication 33205
hearing in accordance with that chapter. The person may appeal the 33206
director's ruling in the adjudication hearing to the tenth 33207
district court of appeals. 33208

(E) Each person appealing under this section to the director 33209
shall file with the director, not later than thirty days after the 33210
decision, ruling, or determination of the director was mailed, a 33211
notice of appeal designating the decision, ruling, or 33212
determination appealed from. 33213

(F) Each person appealing under this section to the tenth 33214
district court of appeals shall file with the court, not later 33215
than thirty days after the date the director's adjudication order 33216
was mailed, a notice of appeal designating the order appealed 33217
from. The appellant also shall file notice with the director not 33218
later than thirty days after the date the order was mailed. 33219

(1) Not later than thirty days after receipt of the notice of appeal, the director shall prepare and certify to the court the complete record of the proceedings out of which the appeal arises. The expense of preparing and transcribing the record shall be taxed as part of the costs of the appeal. In the event that the record or a part thereof is not certified within the time prescribed by this division, the appellant may apply to the court for an order that the record be certified.

(2) In hearing the appeal, the court shall consider only the evidence contained in the record certified to it by the director. The court may remand the matter to the director for the admission of additional evidence on a finding that the additional evidence is material, newly discovered, and could not with reasonable diligence have been ascertained before the hearing before the director. Except as otherwise provided by statute, the court shall give the hearing on the appeal preference over all other civil matters, irrespective of the position of the proceedings on the calendar of the court.

(3) The court shall affirm the director's order if it finds, upon consideration of the entire record and any additional evidence admitted under division (F)(2) of this section, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it shall reverse, vacate, or modify the order.

(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. 33252

(H) No person may intervene in an appeal brought under this section. 33253
33254

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.~~ 33255
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~~(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.~~ 33262
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Sec. 3703.01. (A) Except as otherwise provided in this section, the division of ~~labor~~ industrial compliance in the department of commerce shall do all of the following: 33274
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33276

(1) Inspect all nonresidential buildings within the meaning of section 3781.06 of the Revised Code; 33277
33278

(2) Condemn all unsanitary or defective plumbing that is found in connection with those places; 33279
33280

(3) Order changes in plumbing necessary to insure the safety 33281

of the public health. 33282

(B)(1)(a) The division of ~~labor~~ industrial compliance, boards 33283
of health of city and general health districts, and county 33284
building departments shall not inspect plumbing or collect fees 33285
for inspecting plumbing in particular types of buildings in any 33286
municipal corporation that is certified by the board of building 33287
standards under section 3781.10 of the Revised Code to exercise 33288
enforcement authority for plumbing in those types of buildings. 33289

(b) The division shall not inspect plumbing or collect fees 33290
for inspecting plumbing in particular types of buildings in any 33291
health district that employs one or more plumbing inspectors 33292
certified pursuant to division (D) of this section to enforce 33293
Chapters 3781. and 3791. of the Revised Code and the rules adopted 33294
pursuant to those chapters relating to plumbing in those types of 33295
buildings. 33296

(c) The division shall not inspect plumbing or collect fees 33297
for inspecting plumbing in particular types of buildings in any 33298
health district where the county building department is authorized 33299
to inspect those types of buildings pursuant to a contract 33300
described in division (C)(1) of this section. 33301

(d) The division shall not inspect plumbing or collect fees 33302
for inspecting plumbing in particular types of buildings in any 33303
health district where the board of health has entered into a 33304
contract with the board of health of another district to conduct 33305
inspections pursuant to division (C)(2) of this section. 33306

(2) No county building department shall inspect plumbing or 33307
collect fees for inspecting plumbing in any type of building in a 33308
health district unless the department is authorized to inspect 33309
that type of building pursuant to a contract described in division 33310
(C)(1) of this section. 33311

(3) No municipal corporation shall inspect plumbing or 33312

collect fees for inspecting plumbing in types of buildings for 33313
which it is not certified by the board of building standards under 33314
section 3781.10 of the Revised Code to exercise enforcement 33315
authority. 33316

(4) No board of health of a health district shall inspect 33317
plumbing or collect fees for inspecting plumbing in types of 33318
buildings for which it does not have a plumbing inspector 33319
certified pursuant to division (D) of this section. 33320

(C)(1) The board of health of a health district may enter 33321
into a contract with a board of county commissioners to authorize 33322
the county building department to inspect plumbing in buildings 33323
within the health district. The contract may designate that the 33324
department inspect either residential or nonresidential buildings, 33325
as those terms are defined in section 3781.06 of the Revised Code, 33326
or both types of buildings, so long as the department employs or 33327
contracts with a plumbing inspector certified pursuant to division 33328
(D) of this section to inspect the types of buildings the contract 33329
designates. The board of health may enter into a contract 33330
regardless of whether the health district employs any certified 33331
plumbing inspectors to enforce Chapters 3781. and 3791. of the 33332
Revised Code. 33333

(2) The board of health of a health district, regardless of 33334
whether it employs any certified plumbing inspectors to enforce 33335
Chapters 3781. and 3791. of the Revised Code, may enter into a 33336
contract with the board of health of another health district to 33337
authorize that board to inspect plumbing in buildings within the 33338
contracting board's district. The contract may designate the 33339
inspection of either residential or nonresidential buildings as 33340
defined in section 3781.06 of the Revised Code, or both types of 33341
buildings, so long as the board that performs the inspections 33342
employs a plumbing inspector certified pursuant to division (D) of 33343
this section to inspect the types of buildings the contract 33344

designates. 33345

(D) The superintendent of ~~labor~~ industrial compliance shall 33346
adopt rules prescribing minimum qualifications based on education, 33347
training, experience, or demonstrated ability, that the 33348
superintendent shall use in certifying or recertifying plumbing 33349
inspectors to do plumbing inspections for health districts and 33350
county building departments that are authorized to perform 33351
inspections pursuant to a contract under division (C)(1) of this 33352
section, and for continuing education of plumbing inspectors. 33353
Those minimum qualifications shall be related to the types of 33354
buildings for which a person seeks certification. 33355

(E) The superintendent may enter into reciprocal 33356
registration, licensure, or certification agreements with other 33357
states and other agencies of this state relative to plumbing 33358
inspectors if both of the following apply: 33359

(1) The requirements for registration, licensure, or 33360
certification of plumbing inspectors under the laws of the other 33361
state or laws administered by the other agency are substantially 33362
equal to the requirements the superintendent adopts under division 33363
(D) of this section for certifying plumbing inspectors. 33364

(2) The other state or agency extends similar reciprocity to 33365
persons certified under this chapter. 33366

(F) The superintendent may select and contract with one or 33367
more persons to do all of the following regarding examinations for 33368
certification of plumbing inspectors: 33369

(1) Prepare, administer, score, and maintain the 33370
confidentiality of the examination; 33371

(2) Maintain responsibility for all expenses required to 33372
comply with division (F)(1) of this section; 33373

(3) Charge each applicant a fee for administering the 33374

examination in an amount the superintendent authorizes; 33375

(4) Design the examination for certification of plumbing 33376
inspectors to determine an applicant's competence to inspect 33377
plumbing. 33378

(G) Standards and methods prescribed in local plumbing 33379
regulations shall not be less than those prescribed in Chapters 33380
3781. and 3791. of the Revised Code and the rules adopted pursuant 33381
to those chapters. 33382

(H) Notwithstanding any other provision of this section, the 33383
division shall make a plumbing inspection of any building or other 33384
place that there is reason to believe is in a condition to be a 33385
menace to the public health. 33386

Sec. 3703.03. In the administration of sections 3703.01 to 33387
3703.08 of the Revised Code, the division of ~~labor~~ industrial 33388
compliance shall enforce rules governing plumbing adopted by the 33389
board of building standards under authority of sections 3781.10 33390
and 3781.11 of the Revised Code, and register those persons 33391
engaged in or at the plumbing business. 33392

Plans and specifications for all plumbing to be installed in 33393
or for buildings coming within such sections shall be submitted to 33394
and approved by the division before the contract for plumbing is 33395
let. 33396

Sec. 3703.04. The superintendent of ~~labor~~ industrial 33397
compliance shall appoint such number of plumbing inspectors as is 33398
required. The inspectors shall be practical plumbers with at least 33399
seven years' experience, and skilled and well-trained in matters 33400
pertaining to sanitary regulations concerning plumbing work. 33401

Sec. 3703.05. Plumbing inspectors employed by the division of 33402
~~labor~~ industrial compliance assigned to the enforcement of 33403

sections 3703.01 to 3703.08 of the Revised Code may, between 33404
sunrise and sunset, enter any building where there is good and 33405
sufficient reason to believe that the sanitary condition of the 33406
premises endangers the public health, for the purpose of making an 33407
inspection to ascertain the condition of the premises. 33408

Sec. 3703.06. When any building is found to be in a sanitary 33409
condition or when changes which are ordered, under authority of 33410
this chapter, in the plumbing, drainage, or ventilation have been 33411
made, and after a thorough inspection and approval by the 33412
superintendent of ~~labor~~ industrial compliance, the superintendent 33413
shall issue a certificate, which shall be posted in a conspicuous 33414
place for the benefit of the public at large. Upon notification by 33415
the superintendent, the certificate shall be revoked for any 33416
violation of those sections. 33417

Sec. 3703.07. No plumbing work shall be done in any building 33418
or place coming within the jurisdiction of the division of ~~labor~~ 33419
industrial compliance, except in cases of repairs or leaks in 33420
existing plumbing, until a permit has been issued by the division. 33421

Before granting such permit, an application shall be made by 33422
the owner of the property or by the person, firm, or corporation 33423
which is to do the work. The application shall be made on a form 33424
prepared by the division for the purpose, and each application 33425
shall be accompanied by a fee of twenty-seven dollars, and an 33426
additional fee of seven dollars for each trap, vented fixture, 33427
appliance, or device. Each application also shall be accompanied 33428
by a plan approval fee of eighteen dollars for work containing one 33429
through twenty fixtures; thirty-six dollars for work containing 33430
twenty-one through forty fixtures; and fifty-four dollars for work 33431
containing forty-one or more fixtures. 33432

Whenever a reinspection is made necessary by the failure of 33433

the applicant or plumbing contractor to have the work ready for 33434
inspection when so reported, or by reason of faulty or improper 33435
installation, the person shall pay a fee of forty-five dollars for 33436
each reinspection. 33437

All fees collected pursuant to this section shall be paid 33438
into the state treasury to the credit of the ~~labor~~ industrial 33439
compliance operating fund created in section 121.084 of the 33440
Revised Code. 33441

The superintendent of ~~labor~~ industrial compliance, by rule 33442
adopted in accordance with Chapter 119. of the Revised Code, may 33443
increase the fees required by this section and may establish fees 33444
to pay the costs of the division to fulfill its duties established 33445
by this chapter, including, but not limited to, fees for 33446
administering a program for continuing education for, and 33447
certifying and recertifying plumbing inspectors. The fees shall 33448
bear some reasonable relationship to the cost of administering and 33449
enforcing the provisions of this chapter. 33450

Sec. 3703.08. Any owner, agent, or manager of a building in 33451
which an inspection is made by the division of ~~labor~~ industrial 33452
compliance, a board of health of a health district, or a certified 33453
department of building inspection of a municipal corporation or a 33454
county shall have the entire system of drainage and ventilation 33455
repaired, as the division, board of health, or department of 33456
building inspection directs by its order. After due notice to 33457
repair that work is given, the owner, agent, or manager shall 33458
notify the public authority that issued the order when the work is 33459
ready for its inspection. No person shall fail to have the work 33460
ready for inspection at the time specified in the notice. 33461

Sec. 3703.10. All prosecutions and proceedings by the 33462
division of ~~labor~~ industrial compliance for the violation of 33463

sections 3703.01 to 3703.08 of the Revised Code, or for the 33464
violation of any of the orders or rules of the division under 33465
those sections, shall be instituted by the superintendent of ~~labor~~ 33466
industrial compliance. All fines or judgments collected by the 33467
division shall be paid into the state treasury to the credit of 33468
the ~~labor~~ industrial compliance operating fund created by section 33469
121.084 of the Revised Code. 33470

The superintendent, the board of health of a general or city 33471
health district, or any person charged with enforcing the rules of 33472
the division adopted under sections 3703.01 to 3703.08 of the 33473
Revised Code may petition the court of common pleas for injunctive 33474
or other appropriate relief requiring any person violating a rule 33475
adopted or order issued by the superintendent under those sections 33476
to comply with the rule or order. The court of common pleas of the 33477
county in which the offense is alleged to be occurring may grant 33478
injunctive or other appropriate relief. 33479

The superintendent may do all of the following: 33480

(A) Deny an applicant certification as a plumbing inspector; 33481

(B) Suspend or revoke the certification of a plumbing 33482
inspector; 33483

(C) Examine any certified plumbing inspector under oath; 33484

(D) Examine the records and books of any certified plumbing 33485
inspector if the superintendent finds the material to be examined 33486
relevant to a determination described in division (A), (B), or (C) 33487
of this section. 33488

Sec. 3703.21. (A) Within ninety days after September 16, 33489
2004, the superintendent of ~~labor~~ industrial compliance shall 33490
appoint a backflow advisory board consisting of not more than ten 33491
members, who shall serve at the pleasure of the superintendent. 33492
The superintendent shall appoint a representative from the 33493

plumbing section of the division of ~~labor~~ industrial compliance, 33494
three representatives recommended by the plumbing administrator of 33495
the division of ~~labor~~ industrial compliance, a representative of 33496
the drinking water program of the Ohio environmental protection 33497
agency, three representatives recommended by the director of 33498
environmental protection, and not more than two members who are 33499
not employed by the plumbing or water industry. 33500

The board shall advise the superintendent on matters 33501
pertaining to the training and certification of backflow 33502
technicians. 33503

(B) The superintendent shall adopt rules in accordance with 33504
Chapter 119. of the Revised Code to provide for the certification 33505
of backflow technicians. The rules shall establish all of the 33506
following requirements, specifications, and procedures: 33507

(1) Requirements and procedures for the initial certification 33508
of backflow technicians, including eligibility criteria and 33509
application requirements and fees; 33510

(2) Specifications concerning and procedures for taking 33511
examinations required for certification as a backflow technician, 33512
including eligibility criteria to take the examination and 33513
application requirements and fees for taking the examination; 33514

(3) Specifications concerning and procedures for renewing a 33515
certification as a backflow technician, including eligibility 33516
criteria, application requirements, and fees for renewal; 33517

(4) Specifications concerning and procedures for both of the 33518
following: 33519

(a) Approval of training agencies authorized to teach 33520
required courses to candidates for certification as backflow 33521
technicians or continuing education courses to certified backflow 33522
technicians; 33523

| | |
|---|--|
| (b) Renewal of the approval described in division (B)(4)(a) of this section. | 33524 33525 |
| (5) Education requirements that candidates for initial certification as backflow technicians must satisfy and continuing education requirements that certified backflow technicians must satisfy; | 33526 33527 33528 33529 |
| (6) Grounds and procedures for denying, suspending, or revoking certification, or denying the renewal of certification, as a backflow technician; | 33530 33531 33532 |
| (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; | 33533 33534 33535 33536 33537 |
| (8) Any provision the superintendent determines is necessary to administer or enforce this section. | 33538 33539 |
| (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. | 33540 33541 33542 33543 33544 33545 |
| (D) Whoever violates division (C) of this section or any rule adopted pursuant to division (B) of this section shall pay a civil penalty of not more than five thousand dollars for each day that the violation continues. The superintendent may, by order, assess a civil penalty under this division, or may request the attorney general to bring a civil action to impose the civil penalty in the court of common pleas of the county in which the violation occurred or where the violator resides. | 33546 33547 33548 33549 33550 33551 33552 33553 |
| (E) Any action taken under a rule adopted pursuant to | 33554 |

division (B)(6) of this section is subject to the appeal process 33555
of Chapter 119. of the Revised Code. An administrative order 33556
issued pursuant to rules adopted under division (B)(7) of this 33557
section and an appeal to that type of administrative order shall 33558
be executed in accordance with Chapter 119. of the Revised Code. 33559

(F) As used in this section: 33560

(1) "Isolation backflow prevention device" means a device for 33561
the prevention of the backflow of liquids, solids, or gases that 33562
is regulated by the building code adopted pursuant to section 33563
3781.10 of the Revised Code and rules adopted pursuant to this 33564
section. 33565

(2) "Containment backflow prevention device" means a device 33566
for the prevention of the backflow of liquids, solids, or gases 33567
that is installed by the supplier of, or as a requirement of, any 33568
public water system as defined in division (A) of section 6109.01 33569
of the Revised Code. 33570

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.08 of 33571
the Revised Code, or any rule the division of ~~labor~~ industrial 33572
compliance is required to enforce under such sections, shall be 33573
fined not less than ten nor more than one hundred dollars or 33574
imprisoned for not less than ten nor more than ninety days, or 33575
both. No person shall be imprisoned under this section for the 33576
first offense, and the prosecution always shall be as for a first 33577
offense unless the affidavit upon which the prosecution is 33578
instituted contains the allegation that the offense is a second or 33579
repeated offense. 33580

Sec. 3704.035. (A) There is hereby created in the state 33581
treasury the Title V clean air fund. Except as otherwise provided 33582
in division (K) of section 3745.11 of the Revised Code, all moneys 33583
collected under ~~divisions (C), (D), (F), (G), (H), (I), and (J)~~ 33584

~~division (B) of that section and under section 3745.111 of the Revised Code, and any gifts, grants, or contributions received by the director of environmental protection for the purposes of the fund, shall be credited to the fund. The director shall expend moneys from 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 and rules adopted and terms and conditions of permits, variances, and orders issued under those laws, except that the director shall not expend moneys credited to the fund for the administration and enforcement of motor vehicle inspection and maintenance programs and requirements under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162 of the Revised Code.~~

~~Specifically, the~~ The director shall expend all moneys credited to the fund ~~from fees assessed under section 3745.11 of the Revised Code pursuant to the Title V permit program established under section 3704.036 of the Revised Code, and from any gifts, grants, or contributions received for the purposes of that program,~~ solely to administer and enforce that the Title V program pursuant to the federal Clean Air Act, this chapter, and rules adopted under it, except as costs relating to enforcement are limited by the federal Clean Air Act. The director shall establish separate and distinct accounting for all such moneys.

(B) There is hereby created in the state treasury the 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 33617
conditions of permits, variances, and orders issued under those 33618
laws. However, the director shall not expend money credited to the 33619
fund for the administration and enforcement of the Title V permit 33620
program established under this chapter and rules adopted under it 33621
or motor vehicle inspection and maintenance programs established 33622
under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162 33623
of the Revised Code. 33624

(C) The director shall report biennially to the general 33625
assembly the amounts of fees and other moneys credited to the ~~fund~~ 33626
funds under this section and the amounts expended from ~~it~~ them for 33627
each of the various air pollution control programs. 33628

Sec. 3705.24. (A)(1) The ~~public director of health council~~ 33629
shall, in accordance with section 111.15 of the Revised Code, 33630
adopt rules prescribing fees for the following items or services 33631
provided by the state office of vital statistics: 33632

(a) Except as provided in division (A)(4) of this section: 33633

(i) A certified copy of a vital record or a certification of 33634
birth; 33635

(ii) A search by the office of vital statistics of its files 33636
and records pursuant to a request for information, regardless of 33637
whether a copy of a record is provided; 33638

(iii) A copy of a record provided pursuant to a request. 33639

(b) Replacement of a birth certificate following an adoption, 33640
legitimation, paternity determination or acknowledgement, or court 33641
order; 33642

(c) Filing of a delayed registration of a vital record; 33643

(d) Amendment of a vital record that is requested later than 33644
one year after the filing date of the vital record; 33645

(e) Any other documents or services for which the ~~public~~ 33646
~~health council~~ director considers the charging of a fee 33647
appropriate. 33648

(2) Fees prescribed under division (A)(1)(a) of this section 33649
shall not be less than twelve dollars. 33650

(3) Fees prescribed under division (A)(1) of this section 33651
shall be collected in addition to any fees required by sections 33652
3109.14 and 3705.242 of the Revised Code. 33653

(4) Fees prescribed under division (A) of this section shall 33654
not apply to certifications issued under division (H) of this 33655
section or copies provided under section 3705.241 of the Revised 33656
Code. 33657

(B) In addition to the fees prescribed under division (A) of 33658
this section or section 3709.09 of the Revised Code, the office of 33659
vital statistics, the board of health of a city or general health 33660
district, or a local registrar of vital statistics who is not a 33661
salaried employee of a city or general health district shall 33662
charge a five-dollar fee for each certified copy of a vital record 33663
and each certification of birth. This fee shall be deposited in 33664
the general operations fund created under section 3701.83 of the 33665
Revised Code and be used to support the operations, the 33666
modernization, and the automation of the vital records program in 33667
this state. A board of health or a local registrar shall forward 33668
all fees collected under this division to the department of health 33669
not later than thirty days after the end of each calendar quarter. 33670

(C) Except as otherwise provided in division (H) of this 33671
section, and except as provided in section 3705.241 of the Revised 33672
Code, fees collected by the director of health under sections 33673
3705.01 to 3705.29 of the Revised Code shall be paid into the 33674
state treasury to the credit of the general operations fund 33675
created by section 3701.83 of the Revised Code. Except as provided 33676

in division (B) or (I) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand 33708
and less than one hundred twenty-five thousand, eighty cents; 33709

(4) In primary registration districts of less than fifty 33710
thousand, one dollar. 33711

(E) The director of health shall annually certify to the 33712
county treasurers of the several counties the number of birth, 33713
fetal death, death, and military service certificates registered 33714
from their respective counties with the names of the local 33715
registrars and the amounts due each registrar and health district 33716
at the rates fixed in this section. Such amounts shall be paid by 33717
the treasurer of the county in which the registration districts 33718
are located. No fees shall be charged or collected by registrars 33719
except as provided by this chapter and section 3109.14 of the 33720
Revised Code. 33721

(F) A probate judge shall be paid a fee of fifteen cents for 33722
each certified abstract of marriage prepared and forwarded by the 33723
probate judge to the department of health pursuant to section 33724
3705.21 of the Revised Code. The fee shall be in addition to the 33725
fee paid for a marriage license and shall be paid by the 33726
applicants for the license. 33727

(G) The clerk of a court of common pleas shall be paid a fee 33728
of one dollar for each certificate of divorce, dissolution, and 33729
annulment of marriage prepared and forwarded by the clerk to the 33730
department pursuant to section 3705.21 of the Revised Code. The 33731
fee for the certified abstract of divorce, dissolution, or 33732
annulment of marriage shall be added to the court costs allowed in 33733
these cases. 33734

(H) The fee for an heirloom certification of birth issued 33735
pursuant to division (B)(2) of section 3705.23 of the Revised Code 33736
shall be an amount prescribed by rule by the director of health 33737
plus any fee required by section 3109.14 of the Revised Code. In 33738

setting the amount of the fee, the director shall establish a 33739
surcharge in addition to an amount necessary to offset the expense 33740
of processing heirloom certifications of birth. The fee prescribed 33741
by the director of health pursuant to this division shall be 33742
deposited into the state treasury to the credit of the heirloom 33743
certification of birth fund which is hereby created. Money 33744
credited to the fund shall be used by the office of vital 33745
statistics to offset the expense of processing heirloom 33746
certifications of birth. However, the money collected for the 33747
surcharge, subject to the approval of the controlling board, shall 33748
be used for the purposes specified by the family and children 33749
first council pursuant to section 121.37 of the Revised Code. 33750

(I)(1) Four dollars of each fee collected by the board of 33751
health of a city or general health district for a certified copy 33752
of a vital record or a certification of birth shall be transferred 33753
to the office of vital statistics not later than thirty days after 33754
the end of each calendar quarter. The amount collected shall be 33755
used to support public health systems. Of each four dollars 33756
collected, one dollar shall be used by the director of health to 33757
pay subsidies to boards of health. The subsidies shall be 33758
distributed in accordance with the same formula established under 33759
section 3701.342 of the Revised Code for the distribution of state 33760
health district subsidy funds to boards of health and local health 33761
departments. 33762

(2) Four dollars of each fee collected by a local registrar 33763
of vital statistics who is not a salaried employee of a city or 33764
general health district, for a certified copy of a vital record or 33765
certification of birth, shall be transferred to the office of 33766
vital statistics not later than thirty days after the end of each 33767
calendar quarter. The amount collected shall be used to support 33768
public health systems. 33769

Sec. 3705.30. (A) As used in this section: 33770

(1) "Freestanding birthing center" has the same meaning as in 33771
section ~~3702.51~~ 3702.141 of the Revised Code. 33772

(2) "Hospital" means a hospital classified under section 33773
3701.07 of the Revised Code as a general hospital or children's 33774
hospital. 33775

(3) "Physician" means an individual authorized under Chapter 33776
4731. of the Revised Code to practice medicine and surgery or 33777
osteopathic medicine and surgery. 33778

(B) The director of health shall establish and, if funds for 33779
this purpose are available, implement a statewide birth defects 33780
information system for the collection of information concerning 33781
congenital anomalies, stillbirths, and abnormal conditions of 33782
newborns. 33783

(C) If the system is implemented under division (B) of this 33784
section, all of the following apply: 33785

(1) The director may require each physician, hospital, and 33786
freestanding birthing center to report to the system information 33787
concerning all patients under five years of age with a primary 33788
diagnosis of a congenital anomaly or abnormal condition. The 33789
director shall not require a hospital, freestanding birthing 33790
center, or physician to report to the system any information that 33791
is reported to the director or department of health under another 33792
provision of the Revised Code or Administrative Code. 33793

(2) On request, each physician, hospital, and freestanding 33794
birthing center shall give the director or authorized employees of 33795
the department of health access to the medical records of any 33796
patient described in division (C)(1) of this section. The 33797
department shall pay the costs of copying any medical records 33798
pursuant to this division. 33799

(3) The director may review vital statistics records and 33800
shall consider expanding the list of congenital anomalies and 33801
abnormal conditions of newborns reported on birth certificates 33802
pursuant to section 3705.08 of the Revised Code. 33803

(D) A physician, hospital, or freestanding birthing center 33804
that provides information to the system under division (C) of this 33805
section shall not be subject to criminal or civil liability for 33806
providing the information. 33807

Sec. 3706.19. (A) There is hereby created in the Ohio air 33808
quality development authority the office of ~~ombudsman~~ ombudsperson 33809
for the small business stationary source technical and 33810
environmental compliance assistance program created under section 33811
3704.18 of the Revised Code. The office shall exercise its duties 33812
independently of any other state agency. 33813

(B) ~~Not later than one year after the effective date of this~~ 33814
~~section, the~~ The governor, with the advice and consent of the 33815
senate, shall appoint the ~~initial ombudsman~~ ombudsperson. The 33816
~~ombudsman~~ ombudsperson shall serve for a term of four years. The 33817
person who is appointed to serve as the ~~ombudsman~~ ombudsperson 33818
shall be experienced in management and in working with private 33819
enterprise and government entities, knowledgeable in the areas of 33820
arbitration and negotiation, experienced in interpreting statutory 33821
and regulatory law, and knowledgeable in investigation techniques 33822
and procedures, recordkeeping, and report writing. The ~~ombudsman~~ 33823
ombudsperson may be the highest ranking managerial employee of the 33824
authority. 33825

(C) The ~~ombudsman~~ ombudsperson shall do all of the following: 33826

- (1) Ensure that the goals of the program are being met; 33827
- (2) Conduct independent evaluations of all aspects of the 33828
program; 33829

- (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; 33830
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- (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; 33835
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- (5) Aid in the dissemination of information, including air pollution requirements and control technologies, to small businesses and other interested persons; 33838
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- (6) Provide free, confidential assistance on individual source problems and grievances presented by small businesses; 33841
33842
- (7) Aid in investigating and resolving complaints against, and disputes involving, the agency from small businesses; 33843
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- (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; 33845
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- (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; 33850
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33852
- (10) Work with other states to establish a network for sharing information on small businesses and their efforts to comply with the federal Clean Air Act and state and local air pollution control laws; 33853
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- (11) Seek public and private funding sources that can financially assist small businesses that are in need of moneys to comply with air pollution control laws; 33857
33858
33859

(12) Conduct studies to evaluate the impacts of the federal
Clean Air Act on the state's economy, local economies, and small
businesses.

(D) There is hereby created in the state treasury the small
business ~~ombudsman~~ ombudsperson fund, which shall consist of
moneys transferred to it from the Title V clean air fund created
in section 3704.035 of the Revised Code. Moneys in the fund shall
be used exclusively for the purposes of this section.

The director of environmental protection and the executive
director of the authority annually shall determine the amount of
moneys necessary for the operation of the office of the ~~ombudsman~~
ombudsperson. Thereafter, the director shall request the director
of budget and management to, and that director shall, transfer
that amount of moneys from the Title V clean air fund to the small
business ~~ombudsman~~ ombudsperson fund.

(E) There is hereby created in the state treasury the small
business assistance fund, which shall consist of moneys credited
to it under division (K) of section 3745.11 of the Revised Code.
The ~~ombudsman~~ ombudsperson shall use moneys in the fund solely to
provide financial assistance to small businesses that have one
hundred or fewer employees and that are having financial
difficulty complying with the "Clean Air Act Amendments of 1990,"
104 Stat. 2399, 42 U.S.C.A. 7401, and regulations adopted under
it.

In accordance with Chapter 119. of the Revised Code, the
~~ombudsman~~ ombudsperson shall adopt rules establishing procedures
and requirements governing grants awarded under this division.

Sec. 3709.03. (A) There is hereby created in each general
health district a district advisory council. A council shall
consist of the president of the board of county commissioners, the
chief executive of each municipal corporation not constituting a

city health district, and the president of the board of township trustees of each township. The board of county commissioners, the legislative body of a municipal corporation, and the board of township trustees of a township may select an alternate from among themselves to serve if the president, the chief executive, or the president of the board of township trustees is unable to attend any meeting of the district advisory council. When attending a meeting on behalf of a council member, the alternate may vote on any matter on which the member is authorized to vote.

The council shall organize by selecting a chair and secretary from among its members. The council shall adopt bylaws governing its meetings, the transaction of business, and voting procedures.

The council shall meet annually in March at a place determined by the chair and the health commissioner for the purpose of electing the chair and the secretary, making necessary appointments to the board of health, receiving and considering the annual or special reports from the board of health, and making recommendations to the board of health or to the department of health in regard to matters for the betterment of health and sanitation within the district or for needed legislation. The secretary of the council shall notify the district health commissioner and the director of health of the proceedings of such meeting.

Special meetings of the council shall be held on the order of any of the following:

(1) The director of health;

(2) The board of health;

(3) The lesser of five or a majority of district advisory council members.

The district health commissioner shall attend all meetings of the council.

(B) The district advisory council shall appoint four members 33922
of the board of health, and the remaining member shall be 33923
appointed by the health district licensing council established 33924
under section 3709.41 of the Revised Code. At least one member of 33925
the board of health shall be a physician. Appointments shall be 33926
made with due regard to equal representation of all parts of the 33927
district. 33928

(C) If at an annual or special meeting at which a member of 33929
the board of health is to be appointed fewer than a majority of 33930
the members of the district council are present, the council, by 33931
the majority vote of council members present, may organize an 33932
executive committee to make the appointment. An executive 33933
committee shall consist of five council members, including the 33934
president of the board of county commissioners, the council chair, 33935
the council secretary, and two additional council members selected 33936
by majority affirmative vote of the council members present at the 33937
meeting. The additional members selected shall include one 33938
representative of municipal corporations in the district that are 33939
not city health districts and one representative of townships in 33940
the district. If an individual is eligible for more than one 33941
position on the executive committee due to holding a particular 33942
office, the individual shall fill one position on the committee 33943
and the other position shall be filled by a member selected by a 33944
majority affirmative vote of the council members present at the 33945
meeting. A council member's alternate for annual meetings may 33946
serve as the member's alternate at meetings of the executive 33947
committee. 33948

Not later than thirty days after an executive committee is 33949
organized, the committee shall meet and the council chair shall 33950
present to the committee the matter of appointing a member of the 33951
board of health. The committee shall appoint the board member by 33952
majority affirmative vote. In the case of a combined health 33953

district, the executive committee shall appoint only members of 33954
the board of health that are to be appointed by the district 33955
advisory council, unless the contract for administration of health 33956
affairs in the combined district provides otherwise. If a majority 33957
affirmative vote is not reached within thirty days after the 33958
executive committee is organized, the director of health shall 33959
appoint the member of the board of health under the authority 33960
conferred by section 3709.03 of the Revised Code. 33961

If the council fails to meet or appoint a member of the board 33962
of health as required by this section or section 3709.02 of the 33963
Revised Code, the director of health, ~~with the consent of the~~ 33964
~~public health council,~~ may appoint the member. 33965

Sec. 3709.04. If in any general health district the district 33966
advisory council fails to meet or to select a board of health, the 33967
director of health may, ~~with the consent of the public health~~ 33968
~~council,~~ appoint a board of health for such district which shall 33969
have and exercise all powers conferred on a board of health of a 33970
general health district. 33971

Sec. 3709.06. If any city fails to establish a board of 33972
health under section 3709.05 of the Revised Code, the director of 33973
health, ~~with the approval of the public health council,~~ may 33974
appoint a health commissioner for such city, and fix ~~his~~ the 33975
commissioner's salary and term of office. Such commissioner shall 33976
have the same powers and perform the duties granted to or imposed 33977
upon a board of health of a city health district, except that 33978
rules, regulations, or orders of a general nature, made by ~~him~~ the 33979
commissioner and required to be published, shall be approved by 33980
the director. The salary of such commissioner and all necessary 33981
expenses incurred by ~~him~~ the commissioner in performing the duties 33982
of the board shall be paid by and be a valid claim against such 33983
city. 33984

Sec. 3709.085. (A) The board of health of a city or general health district may enter into a contract with any political subdivision or other governmental agency to obtain or provide all or part of any services, including, but not limited to, enforcement services, for the purposes of Chapter 3704. of the Revised Code, the rules adopted and orders made pursuant thereto, or any other ordinances or rules for the prevention, control, and abatement of air pollution.

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

(a) "Semipublic disposal system" means a disposal system that treats the sanitary sewage discharged from publicly or privately owned buildings or places of assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment, but does not include a disposal system that treats sewage in amounts of more than twenty-five thousand gallons per day; a disposal system for the treatment of sewage that is exempt from the requirements of section 6111.04 of the Revised Code pursuant to division (F)(7) of that section; or a disposal system for the treatment of industrial waste.

(b) Terms defined in section 6111.01 of the Revised Code have the same meanings as in that section.

(2) The board of health of a city or general health district may enter into a contract with the environmental protection agency to conduct on behalf of the agency inspection or enforcement services, for the purposes of Chapter 6111. of the Revised Code and rules adopted thereunder, for the disposal or treatment of sewage from semipublic disposal systems. The board of health of a city or general health district may charge a fee established pursuant to section 3709.09 of the Revised Code to be paid by the owner or operator of a semipublic disposal system for inspections conducted by the board pursuant to a contract entered into under

division (B)(2) of this section, except that the board shall not 34016
charge a fee for those inspections conducted at any recreational 34017
vehicle park, recreation camp, or combined park-camp that is 34018
licensed under section 3729.05 of the Revised Code or at any 34019
manufactured home park that is licensed under section ~~3733.03~~ 34020
4781.27 of the Revised Code. 34021

Sec. 3709.09. (A) The board of health of a city or general 34022
health district may, by rule, establish a uniform system of fees 34023
to pay the costs of any services provided by the board. 34024

The fee for issuance of a certified copy of a vital record or 34025
a certification of birth shall not be less than the fee prescribed 34026
for the same service under division (A)(1) of section 3705.24 of 34027
the Revised Code and shall include the fees required by division 34028
(B) of section 3705.24 and section 3109.14 of the Revised Code. 34029

Fees for services provided by the board for purposes 34030
specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 34031
3730.03, and 3749.04 of the Revised Code shall be established in 34032
accordance with rules adopted under division (B) of this section. 34033
The district advisory council, in the case of a general health 34034
district, and the legislative authority of the city, in the case 34035
of a city health district, may disapprove any fee established by 34036
the board of health under this division, and any such fee, as 34037
disapproved, shall not be charged by the board of health. 34038

(B) The ~~public director of health council~~ shall adopt rules 34039
under section 111.15 of the Revised Code that establish fee 34040
categories and a uniform methodology for use in calculating the 34041
costs of services provided for purposes specified in sections 34042
3701.344, 3711.10, 3718.06, 3729.07, 3730.03, and 3749.04 of the 34043
Revised Code. In adopting the rules, the ~~public health council~~ 34044
director shall consider recommendations it receives from advisory 34045
boards established either by statute or the director ~~of health~~ for 34046

entities subject to the fees. 34047

(C) Except when a board of health establishes a fee by 34048
adopting a rule as an emergency measure, the board of health shall 34049
hold a public hearing regarding each proposed fee for a service 34050
provided by the board for a purpose specified in section 3701.344, 34051
3711.10, 3718.06, 3729.07, 3730.03, or 3749.04 of the Revised 34052
Code. If a public hearing is held, at least twenty days prior to 34053
the public hearing the board shall give written notice of the 34054
hearing to each entity affected by the proposed fee. The notice 34055
shall be mailed to the last known address of each entity and shall 34056
specify the date, time, and place of the hearing and the amount of 34057
the proposed fee. 34058

(D) If payment of a fee established under this section is not 34059
received by the day on which payment is due, the board of health 34060
shall assess a penalty. The amount of the penalty shall be equal 34061
to twenty-five per cent of the applicable fee. 34062

(E) All rules adopted by a board of health under this section 34063
shall be adopted, recorded, and certified as are ordinances of 34064
municipal corporations and the record thereof shall be given in 34065
all courts the same effect as is given such ordinances, but the 34066
advertisements of such rules shall be by publication in one 34067
newspaper of general circulation within the health district. 34068
Publication shall be made once a week for two consecutive weeks or 34069
as provided in section 7.16 of the Revised Code, and such rules 34070
shall take effect and be in force ten days from the date of the 34071
first publication. 34072

Sec. 3709.092. (A) A board of health of a city or general 34073
health district shall transmit to the director of health all fees 34074
or additional amounts that the ~~public health council~~ director 34075
requires to be collected under sections 3701.344, 3718.06, 34076
3729.07, and 3749.04 of the Revised Code. The fees and amounts 34077

shall be transmitted according to the following schedule: 34078

(1) For fees and amounts received by the board on or after 34079
the first day of January but not later than the thirty-first day 34080
of March, transmit the fees and amounts not later than the 34081
fifteenth day of May; 34082

(2) For fees and amounts received by the board on or after 34083
the first day of April but not later than the thirtieth day of 34084
June, transmit the fees and amounts not later than the fifteenth 34085
day of August; 34086

(3) For fees and amounts received by the board on or after 34087
the first day of July but not later than the thirtieth day of 34088
September, transmit the fees and amounts not later than the 34089
fifteenth day of November; 34090

(4) For fees and amounts received by the board on or after 34091
the first day of October but not later than the thirty-first day 34092
of December, transmit the fees and amounts not later than the 34093
fifteenth day of February of the following year. 34094

(B) The director shall deposit the fees and amounts received 34095
under this section into the state treasury to the credit of the 34096
general operations fund created in section 3701.83 of the Revised 34097
Code. Each amount shall be used solely for the purpose for which 34098
it was collected. 34099

Sec. 3709.32. The president of each board of health providing 34100
health services in one or more health districts and the chief 34101
executive officer of each health department providing health 34102
services in one or more health districts shall, on or before the 34103
first day of March of each year, certify the amounts expended 34104
during the preceding calendar year which qualify for state health 34105
district subsidy funds under section 3701.342 of the Revised Code 34106
and rules ~~of~~ adopted by the public director of health council. The 34107

director of health shall certify the amount payable under the 34108
state health district subsidy funds distribution formula adopted 34109
by the ~~public~~ director of health council under section 3701.342 of 34110
the Revised Code to the director of budget and management for 34111
payment. Payment shall not be made unless: 34112

(A) The board or department has provided such information 34113
concerning services and costs as is requested by the director of 34114
health; 34115

(B) The certificate of the board of health or health 34116
department has been endorsed by the director of health; 34117

(C) The board or department has complied with section 34118
3701.342 of the Revised Code and ~~public health council~~ rules 34119
adopted by the director of health; 34120

(D) The municipal corporations and townships composing the 34121
health district have provided adequate local funding for public 34122
health services. The ~~public~~ director of health council shall 34123
determine what constitutes adequate local funding, and may grant 34124
an exception to this requirement to a municipal corporation or 34125
township if unusually severe economic conditions prevent it from 34126
receiving adequate tax revenues to help support minimally 34127
acceptable public health services. 34128

No state health district subsidy funds shall be granted to 34129
any board or department that decreases its appropriation for 34130
public health services in anticipation of using state funds to 34131
provide public health services normally supported by local 34132
revenues. 34133

Sec. 3709.35. If the director of health ~~finds~~ charges that 34134
the health commissioner or a member of the board of health of a 34135
health district is guilty of misfeasance, malfeasance, or 34136
nonfeasance or has failed to perform any or all of the duties 34137

required by sections 3701.10, 3701.29, 3701.81, 3707.08, 3707.14, 3707.16, 3707.47, and 3709.01 to 3709.36 of the Revised Code, the director ~~shall prefer a charge against the commissioner or board member before the public health council and~~ shall notify the commissioner or board member as to the time and place at which such charges will be heard. If the ~~council~~ director, after hearing, finds the commissioner or board member guilty of the charge, it may remove such commissioner or member from office.

If the lesser of three or one-fifth of the members of a district advisory council have reason to believe a member of the board of health of a general health district is guilty of misfeasance, malfeasance, or nonfeasance or has failed to perform any or all of the duties required by sections 3701.10, 3701.29, 3701.81, 3707.14, 3707.16, 3707.47, and 3709.01 to 3709.36 of the Revised Code, the district advisory council members shall prefer a charge against the board member before the district advisory council and shall notify the board member as to the time and place at which such charges will be heard. If a majority of the council, after hearing, finds the board member guilty of the charge, it may remove the member from office.

When any member of the board of health of a general or city health district is removed from office, the district advisory council or the chief executive of the city, upon notice of such removal, shall within thirty days after receipt of such notice fill the vacancy in accordance with section 3709.03 or 3709.05 of the Revised Code.

Sec. 3710.01. As used in this chapter:

(A) "Asbestos" means the asbestiform varieties of chrysotile or serpentine, amosite or cummingtonitegrunerite, crocidolite or riebeckite, actinolite, tremolite, and anthophyllite.

(B) "Asbestos hazard abatement activity" means any activity

involving the removal, renovation, enclosure, repair, or 34169
encapsulation of reasonably related friable asbestos-containing 34170
materials in an amount greater than fifty linear feet or fifty 34171
square feet. "Asbestos hazard abatement activity" also includes 34172
any such activity involving such asbestos-containing materials in 34173
an amount of fifty linear or fifty square feet or less if, when 34174
combined with any other reasonably related activity in terms of 34175
time and location of the activity, the total amount is in an 34176
amount greater than fifty linear or fifty square feet. 34177

(C) "Asbestos hazard abatement contractor" means a business 34178
entity or public entity that engages in or intends to engage in 34179
asbestos hazard abatement activities and that employs or 34180
supervises one or more asbestos hazard abatement specialists for 34181
asbestos hazard abatement activities. "Asbestos hazard abatement 34182
contractor" does not mean an employee of an asbestos hazard 34183
abatement contractor, a general contractor who subcontracts to an 34184
asbestos hazard abatement contractor an asbestos hazard abatement 34185
activity, or any individual who engages in asbestos hazard 34186
abatement activity in ~~his~~ the individual's own home. 34187

(D) "Asbestos hazard abatement project" means one or more 34188
asbestos hazard abatement activities that are conducted by one 34189
asbestos hazard abatement contractor and that are reasonably 34190
related to each other. 34191

(E) "Asbestos hazard abatement specialist" means a person 34192
with responsibility for the oversight or supervision of asbestos 34193
hazard abatement activities, including asbestos hazard abatement 34194
project managers, hazard abatement project supervisors and 34195
foremen, and employees of school districts or other governmental 34196
or public entities who coordinate or directly supervise or oversee 34197
asbestos hazard abatement activities performed by school district, 34198
governmental, or other public employees in school district, 34199
governmental, or other public buildings. 34200

(F) "Asbestos hazard evaluation specialist" means a person 34201
responsible for the identification, detection, and assessment of 34202
asbestos-containing materials, the determination of appropriate 34203
response actions, or the preparation of asbestos management plans 34204
for the purpose of protecting the public health from the hazards 34205
associated with exposure to asbestos, including the performance of 34206
air and bulk sampling. This category of specialists includes 34207
management planners, health professionals, industrial hygienists, 34208
private consultants, or other individuals involved in asbestos 34209
risk identification or assessment or regulatory activities. 34210

(G) "Business entity" means a partnership, firm, association, 34211
corporation, sole proprietorship, or other business concern. 34212

(H) "Public entity" means the state or any of its political 34213
subdivisions or any agency or instrumentality of either. 34214

(I) "License" means a document issued by the department of 34215
health to a business entity or public entity affirming that the 34216
entity has met the requirements set forth in this chapter to 34217
engage in asbestos hazard abatement activities as an asbestos 34218
hazard abatement contractor. 34219

(J) "Certificate" means: 34220

(1) A document issued by the department to an individual 34221
affirming that the individual has successfully completed the 34222
training and other requirements set forth in this chapter to 34223
qualify as an asbestos hazard abatement specialist, an asbestos 34224
hazard evaluation specialist, an asbestos hazard abatement worker, 34225
an asbestos hazard abatement project designer, an asbestos hazard 34226
abatement air-monitoring technician, an approved asbestos hazard 34227
training provider, or other category of asbestos hazard specialist 34228
that the ~~public health council~~ director establishes by rule; or 34229

(2) A document issued by a training institution in accordance 34230
with rules adopted by the ~~public health council~~ director affirming 34231

that an individual has successfully completed the instruction 34232
required in all categories as provided in sections 3710.07 and 34233
3710.10 of the Revised Code. 34234

(K) "Person" means any individual, business entity, 34235
governmental body, or other public or private entity. 34236

(L) "Encapsulate" means to coat, bind, or resurface walls, 34237
ceilings, pipes, or other structures to prevent friable asbestos 34238
from becoming airborne. 34239

(M) "Friable asbestos-containing material" means any material 34240
that contains more than one per cent asbestos by weight and that 34241
can be crumbled, pulverized, or reduced to powder, when dry, by 34242
hand pressure. 34243

(N) "Enclosure" means the permanent confinement of friable 34244
asbestos-containing materials with an airtight barrier in an area 34245
not used as an air plenum. 34246

(O) "Renovation" means the removal or stripping of friable 34247
asbestos-containing materials used on any pipe, duct, boiler, 34248
tank, reactor, turbine, furnace, or load supporting member. 34249

(P) "Asbestos hazard abatement worker" means the person 34250
responsible in a nonsupervisory capacity for the performance of an 34251
asbestos hazard abatement activity. 34252

(Q) "Asbestos hazard abatement project designer" means the 34253
person responsible for the determination of the workscope, work 34254
sequence, or performance standards for an asbestos hazard 34255
abatement activity, including preparation of specifications, 34256
plans, and contract documents. 34257

(R) "Director" means the director of health or ~~his~~ the 34258
director's authorized representative. 34259

(S) "Clearance air sampling" means an air sampling performed 34260
after the completion of any asbestos hazard abatement activity and 34261

prior to the reoccupation of the contained work area by the public 34262
and conducted for the purpose of protecting the public from the 34263
health hazards associated with exposure to friable 34264
asbestos-containing material. 34265

(T) "Asbestos hazard abatement air-monitoring technician" 34266
means the person who is responsible for environmental monitoring 34267
or work area clearance air sampling, including air monitoring 34268
performed to determine completion of response actions under the 34269
rules set forth in 40 C.F.R. 763 Subpart E, adopted by the United 34270
States environmental protection agency pursuant to the "Asbestos 34271
Hazard Emergency Response Act of 1986," Pub. L. 99-519, 100 Stat. 34272
2970. "Asbestos hazard abatement air-monitoring technician" does 34273
not mean an industrial hygienist or industrial hygienist in 34274
training, certified by the American board of industrial hygiene. 34275

Sec. 3710.02. (A) ~~Subject to~~ In accordance with Chapter 119. 34276
of the Revised Code, the ~~public~~ director of health council shall, 34277
as ~~it~~ the director determines necessary, adopt rules to carry out 34278
this chapter. The rules shall include all of the following: 34279

(1) Criteria and procedures for the certification of asbestos 34280
hazard abatement specialists, asbestos hazard evaluation 34281
specialists, asbestos hazard abatement workers, asbestos hazard 34282
abatement project designers, and asbestos hazard abatement 34283
air-monitoring technicians by the director of health; 34284

(2) Criteria and procedures for the director to examine the 34285
records of licensees, certificate holders, and asbestos hazard 34286
abatement training schools; 34287

(3) Procedures and criteria in addition to those provided in 34288
this chapter for the approval of courses for asbestos hazard 34289
training; 34290

(4) Fees for licenses, certifications, and course approvals 34291

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| in excess of the levels set in section 3710.05 of the Revised Code | 34292 |
| and fees for the certification of asbestos hazard abatement | 34293 |
| air-monitoring technicians; | 34294 |
| (5) Levels of asbestos exposure or other circumstances | 34295 |
| constituting a public health emergency that authorize the director | 34296 |
| to issue an emergency order under division (B) of section 3710.13 | 34297 |
| of the Revised Code; | 34298 |
| (6) Employee training standards, work practices that reduce | 34299 |
| the risk of contamination and recontamination of the environment, | 34300 |
| record-keeping requirements, action levels, project clearance | 34301 |
| levels, and other requirements that asbestos hazard abatement | 34302 |
| contractors, asbestos hazard abatement specialists, asbestos | 34303 |
| hazard evaluation specialists, asbestos hazard abatement project | 34304 |
| designers, asbestos hazard abatement air-monitoring technicians, | 34305 |
| asbestos hazard abatement workers, and other persons involved with | 34306 |
| asbestos hazard abatement activities must follow for the | 34307 |
| prevention of hazard to the public; | 34308 |
| (7) Worker protection equipment and practices and other | 34309 |
| health and safety standards for employees and agents of public | 34310 |
| entities coming in contact with asbestos through asbestos hazard | 34311 |
| abatement activity; | 34312 |
| (8) Standards of acceptable conduct for licensees and | 34313 |
| certificate holders engaged in asbestos hazard abatement or | 34314 |
| evaluation activities and acts and omissions that constitute | 34315 |
| grounds for the suspension or revocation of a license or | 34316 |
| certificate, or the denial of an application or renewal of a | 34317 |
| license or certificate in addition to those otherwise provided in | 34318 |
| this chapter; | 34319 |
| (9) Training requirements for asbestos hazard abatement | 34320 |
| project designers and asbestos hazard abatement air-monitoring | 34321 |
| technicians; | 34322 |

(10)(a) Subject to the condition specified in division 34323
(A)(10)(b) of this section, a standard requiring that the amount 34324
of asbestos contained in the air in areas accessible to the public 34325
in buildings that are owned, operated, or leased by a public 34326
entity be not more than ten thousand asbestos fibers longer than 34327
five microns per cubic meter of air calculated as an eight-hour 34328
time-weighted average, which is measured during periods of normal 34329
building occupancy, and a requirement that measurement of airborne 34330
asbestos be made by either or both of the following methods, 34331
provided that results derived by use of the method described in 34332
division (A)(10)(a)(i) of this section supersede results derived 34333
by use of the method described in division (A)(10)(a)(ii) of this 34334
section if both methods are used and the methods yield conflicting 34335
results concerning the presence of fibers in the tested air that 34336
may not be asbestos: 34337

(i) Transmission electron microscopy in the manner described 34338
in the measurement protocol established by the United States 34339
environmental protection agency as set forth in 40 C.F.R. 763; 34340

(ii) Optical phase contrast microscopy in the manner 34341
described in the measurement protocol established by the United 34342
States occupational safety and health administration as set forth 34343
in 29 C.F.R. 1910. 34344

(b) The ~~public health council~~ director periodically shall 34345
review the standard required by division (A)(10)(a) of this 34346
section and determine whether and how it should be amended and how 34347
it shall be used in conjunction with visual and physical 34348
assessment of asbestos-containing materials located in buildings 34349
that are owned, operated, or leased by a public entity to 34350
determine appropriate and cost-effective response actions to such 34351
asbestos-containing materials and shall amend the standard if it 34352
determines that such action is necessary. 34353

(11) Other rules that the ~~public health council~~ director 34354

determines necessary for the implementation of this chapter and to 34355
protect the public health from the hazards associated with 34356
exposure to asbestos. 34357

(B) The director shall do all of the following: 34358

(1) Administer and enforce this chapter and the rules ~~of the~~ 34359
~~public health council~~ adopted pursuant thereto; 34360

(2) Develop comprehensive programs and policies for the 34361
control and prevention of nonoccupational exposure of the public 34362
to friable asbestos-containing materials; 34363

(3) Ensure that persons are trained and licensed or 34364
certified, where appropriate, in accordance with this chapter and 34365
the rules ~~of the public health council~~ adopted pursuant thereto; 34366

(4) Examine those records of licensed asbestos hazard 34367
abatement contractors, certified asbestos hazard abatement 34368
specialists, asbestos hazard evaluation specialists, asbestos 34369
hazard abatement project designers, asbestos hazard abatement 34370
air-monitoring technicians, and asbestos hazard training courses 34371
in accordance with rules adopted by the ~~public health council~~ 34372
director as ~~he~~ the director determines necessary to determine 34373
compliance with this chapter and the rules ~~of the public health~~ 34374
~~council~~ adopted pursuant thereto; 34375

(5) Prohibit and prevent improper asbestos hazard abatement 34376
procedures and require the modification or alteration of asbestos 34377
abatement procedures as they relate to this chapter and the rules 34378
~~of the public health council~~ adopted pursuant thereto; 34379

(6) Collect and disseminate health education information 34380
relating to safe management of asbestos hazards; 34381

(7) Accept and administer grants from the federal government 34382
and other sources, both public and private, for carrying out any 34383
of ~~his~~ the director's functions; 34384

(8) As ~~he~~ the director determines appropriate, conduct 34385
on-site inspections at any location where an asbestos hazard 34386
abatement activity is planned, in progress, or has been completed, 34387
at any location where a public health emergency may occur, is 34388
occurring, or has occurred, or to evaluate the performance or 34389
compliance of any person subject to this chapter; 34390

(9) Conduct an on-site audit of each asbestos hazard training 34391
provider approved pursuant to this chapter, at least once 34392
biennially, during an actual course conducted by the provider 34393
within the state; 34394

(10) Cooperate and assist in investigations, as such relate 34395
to this chapter, conducted by local law enforcement agencies, the 34396
Ohio environmental protection agency, the United States 34397
occupational safety and health administration, and other local, 34398
state, and federal agencies. 34399

Sec. 3710.04. (A) To qualify for an asbestos hazard abatement 34400
contractor's license, a business entity or public entity shall 34401
meet the requirements of this section. 34402

(B) Each employee or agent of the business entity or public 34403
entity applying for a license who will come in contact with 34404
asbestos or will be responsible for an asbestos hazard abatement 34405
project shall: 34406

(1) Be familiar with all applicable state and federal 34407
standards for asbestos hazard abatement projects; 34408

(2) Have successfully completed the course of instruction on 34409
asbestos hazard abatement activities, for their particular 34410
certification, approved by the department of health pursuant to 34411
section 3710.10 of the Revised Code, have passed an examination 34412
approved by the department, and demonstrate to the department that 34413
~~he~~ the employee or agent is capable of complying with all 34414

applicable standards of this state, the United States 34415
environmental protection agency, and the United States 34416
occupational safety and health administration. 34417

(C) A business entity or public entity applying for an 34418
asbestos hazard abatement contractor's license shall, in addition 34419
to the other requirements of this section, provide at least one 34420
asbestos hazard abatement specialist, certified pursuant to this 34421
chapter and the rules ~~of the public health council~~ adopted 34422
~~pursuant thereto~~ under it, for each asbestos hazard abatement 34423
project, and demonstrate to the satisfaction of the department 34424
that ~~he~~ the applicant: 34425

(1) Has access to at least one asbestos disposal site 34426
approved by the Ohio environmental protection agency that is 34427
sufficient for the deposit of all asbestos waste that ~~he~~ the 34428
applicant will generate during the term of the license; 34429

(2) Is sufficiently qualified to safely remove asbestos, 34430
demonstrated by reliability as an asbestos hazard abatement 34431
contractor, possesses a work program that prevents the 34432
contamination or recontamination of the environment and protects 34433
the public health from the hazards of exposure to asbestos, 34434
possesses evidence of certification of each individual employee or 34435
agent who will be responsible for others who may come in contact 34436
with friable asbestos-containing materials, possesses evidence of 34437
training of workers required by section 3710.07 of the Revised 34438
Code, and has prior successful experience in asbestos hazard 34439
abatement projects or equivalent qualifications as determined ~~by~~ 34440
rule in accordance with rules adopted by the public director of 34441
health ~~council~~; 34442

(3) Possesses a worker protection program consistent with 34443
requirements established by the ~~public health council~~ director if 34444
the contractor is a public entity, and a worker protection program 34445
consistent with the requirements of the United States occupational 34446

safety and health administration if the contractor is a business 34447
entity; 34448

(4) Is registered as a business entity with the secretary of 34449
state. 34450

(D) No applicant for licensure as an asbestos hazard 34451
abatement contractor, in order to meet the requirements of this 34452
chapter, shall list an employee of another contractor. 34453

(E) The business entity or public entity shall meet any other 34454
standards that the ~~public health council~~ director, by rule, sets. 34455

(F) Nothing in this chapter or the rules adopted pursuant 34456
thereto relating to asbestos hazard abatement project designers 34457
shall be interpreted as authorizing or permitting an individual 34458
who is certified as an asbestos hazard abatement project designer 34459
to perform the services of a registered architect or professional 34460
engineer unless that person is registered under Chapter 4703. or 34461
4733. of the Revised Code to perform such services. 34462

Sec. 3710.05. (A) Except as otherwise provided in this 34463
chapter, no person shall engage in any asbestos hazard abatement 34464
activities in this state unless licensed or certified pursuant to 34465
this chapter. 34466

(B) To apply for licensure as an asbestos abatement 34467
contractor or certification as an asbestos hazard abatement 34468
specialist, an asbestos hazard evaluation specialist, an asbestos 34469
hazard abatement project designer, or an asbestos hazard abatement 34470
air-monitoring technician, a person shall do all of the following: 34471

(1) Submit a completed application to the department of 34472
health, on a form provided by the department; 34473

(2) Pay the requisite fee as provided in division (D) of this 34474
section; 34475

(3) Submit any other information the ~~public~~ director of 34476

health ~~council~~ by rule requires. 34477

(C) The application form for a business entity or public 34478
entity applying for an asbestos hazard abatement contractor's 34479
license shall include all of the following: 34480

(1) A description of the protective clothing and respirators 34481
that the public entity will use to comply with rules adopted by 34482
the ~~public health council~~ director and that the business entity 34483
will use to comply with requirements of the United States 34484
occupational safety and health administration; 34485

(2) A description of procedures the business entity or public 34486
entity will use for the selection, utilization, handling, removal, 34487
and disposal of clothing to prevent contamination or 34488
recontamination of the environment and to protect the public 34489
health from the hazards associated with exposure to asbestos; 34490

(3) The name and address of each asbestos disposal site that 34491
the business entity or public entity might use during the year; 34492

(4) A description of the site decontamination procedures that 34493
the business entity or public entity will use; 34494

(5) A description of the asbestos hazard abatement procedures 34495
that the business entity or public entity will use; 34496

(6) A description of the procedures that the business entity 34497
or public entity will use for handling waste containing asbestos; 34498

(7) A description of the air-monitoring procedures that the 34499
business entity or public entity will use to prevent contamination 34500
or recontamination of the environment and to protect the public 34501
health from the hazards of exposure to asbestos; 34502

(8) A description of the final clean-up procedures that the 34503
business entity or public entity will use; 34504

(9) A list of all partners, owners, and officers of the 34505
business entity along with their social security numbers; 34506

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|---|---|
| (10) The federal tax identification number of the business entity or the public entity. | 34507 34508 |
| (D) The fees to be charged to each public entity and business entity and their employees and agents for licensure, certification, approval, and renewal of licenses, certifications, and approvals granted under this chapter, subject to division (A)(4) of section 3710.02 of the Revised Code, are: | 34509 34510 34511 34512 34513 |
| (1) Seven hundred fifty dollars for asbestos hazard abatement contractors; | 34514 34515 |
| (2) Two hundred dollars for asbestos hazard abatement project designers; | 34516 34517 |
| (3) Fifty dollars for asbestos hazard abatement workers; | 34518 |
| (4) Two hundred dollars for asbestos hazard abatement specialists; | 34519 34520 |
| (5) Two hundred dollars for asbestos hazard evaluation specialists; and | 34521 34522 |
| (6) Nine hundred dollars for approval or renewal of asbestos hazard training providers. | 34523 34524 |
| (E) Notwithstanding division (A) of this section, no business entity which engages in asbestos hazard abatement activities solely at its own place of business is required to be licensed as an asbestos hazard abatement contractor provided that the business entity is required to and does comply with all applicable standards of the United States environmental protection agency and the United States occupational safety and health administration and provided further that all persons employed by the business entity on the activity meet the requirements of this chapter. | 34525 34526 34527 34528 34529 34530 34531 34532 34533 |
| Sec. 3710.051. No person shall enter into an agreement to perform any aspect of an asbestos hazard abatement project unless the agreement is written and contains at least all of the | 34534 34535 34536 |

following: 34537

(A) A requirement that all persons working on the project are 34538
licensed or certified by the department of health as required by 34539
this chapter; 34540

(B) A requirement that all project clearance levels and 34541
sampling be in accordance with ~~the public health council~~ rules 34542
adopted by the director of health; 34543

(C) A requirement that all clearance air-monitoring be 34544
conducted by asbestos hazard abatement air-monitoring technicians 34545
or asbestos hazard evaluation specialists certified by the 34546
department. 34547

Sec. 3710.06. (A) Within fifteen business days after 34548
receiving an application, the department of health shall 34549
acknowledge receipt of the application and notify the applicant of 34550
any deficiency in the application. Within sixty calendar days 34551
after receiving a completed application, including all additional 34552
information requested by the department, the department shall 34553
issue a license or certificate or deny the application. The 34554
department shall issue only one license or certificate that is in 34555
effect at one time to a business entity and its principal officers 34556
and a public entity and its principal officers. 34557

(B)(1) The department shall deny an application if it 34558
determines that the applicant has not demonstrated the ability to 34559
comply fully with all applicable federal and state requirements 34560
and all requirements, procedures, and standards established by the 34561
~~public~~ director of health ~~council~~ in this chapter. 34562

(2) The department shall deny any application for an asbestos 34563
hazard abatement contractor's license if the applicant or an 34564
officer or employee of the applicant has been convicted of a 34565
felony under any state or federal law designed to protect the 34566

environment. 34567

(3) The department shall send all denials of an application 34568
by certified mail to the applicant. If the department receives a 34569
timely request for a hearing from the applicant, as provided in 34570
division (D) of section 3710.13 of the Revised Code, the 34571
department shall hold a hearing in accordance with Chapter 119. of 34572
the Revised Code. 34573

(C) In an emergency that results from a sudden, unexpected 34574
event that is not a planned asbestos hazard abatement project, the 34575
department may waive the requirements for a license or 34576
certificate. For the purposes of this division, "emergency" 34577
includes operations necessitated by nonroutine failures of 34578
equipment or by actions of fire and emergency medical personnel 34579
pursuant to duties within their official capacities. Any person 34580
who performs an asbestos hazard abatement activity under emergency 34581
conditions shall notify the director within three days after 34582
performance thereof. 34583

(D) Each license or certificate issued under this chapter 34584
expires one year after the date of issue, but each licensee or 34585
certificate holder may apply to the department for the extension 34586
of ~~his~~ the holder's license or certificate under the standard 34587
renewal procedures of Chapter 4745. of the Revised Code. 34588

To qualify for renewal of a license or certificate issued 34589
under this chapter, each licensee or certificate holder shall send 34590
the appropriate renewal fee set forth in division (D) of section 34591
3710.05 of the Revised Code or as adopted by rule by the ~~public~~ 34592
~~health council~~ director pursuant to division (A)(4) of section 34593
3710.02 of the Revised Code. 34594

Certificate holders also shall successfully complete an 34595
annual renewal course approved by the department pursuant to 34596
section 3710.10 of the Revised Code. 34597

(E) The department may charge a fee in addition to those 34598
specified in division (D) of section 3710.05 of the Revised Code 34599
or in ~~rule of~~ rules adopted by the public health council director 34600
pursuant to division (A)(4) of section 3710.02 of the Revised Code 34601
if the licensee or certificate holder applies for renewal after 34602
the expiration thereof or requests a reissuance of any license or 34603
certificate, provided that no such fee shall exceed the original 34604
fees by more than fifty per cent. 34605

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard 34606
abatement project, an asbestos hazard abatement contractor shall 34607
do all of the following: 34608

(1) Prepare a written respiratory protection program as 34609
defined by the ~~public~~ director of health council pursuant to rule, 34610
and make the program available to the department of health, and 34611
workers at the job site if the contractor is a public entity or 34612
prepare a written respiratory protection program, consistent with 34613
29 C.F.R. 1910.134 and make the program available to the 34614
department, and workers at the job site if the contractor is a 34615
business entity; 34616

(2) Ensure that each worker who will be involved in any 34617
asbestos hazard abatement project has been examined within the 34618
preceding year and has been declared by a physician to be 34619
physically capable of working while wearing a respirator; 34620

(3) Ensure that each of the contractor's employees or agents 34621
who will come in contact with asbestos-containing materials or 34622
will be responsible for an asbestos hazard abatement project 34623
receives the appropriate certification or licensure required by 34624
this chapter and the following training: 34625

(a) An initial course approved by the department pursuant to 34626
section 3710.10 of the Revised Code, completed before engaging in 34627
any asbestos hazard abatement project; and 34628

(b) An annual review course approved by the department 34629
pursuant to section 3710.10 of the Revised Code. 34630

(B) After obtaining or renewing a license, an asbestos hazard 34631
abatement contractor shall notify the department, on a form 34632
approved by the director of health, at least ten days before 34633
beginning each asbestos hazard abatement project conducted during 34634
the term of the contractor's license. 34635

(C) In addition to any other fee imposed under this chapter, 34636
an asbestos hazard abatement contractor shall pay, at the time of 34637
providing notice under division (B) of this section, the 34638
department a fee of sixty-five dollars for each asbestos hazard 34639
abatement project conducted. 34640

Sec. 3710.08. (A) An asbestos hazard abatement contractor 34641
engaging in any asbestos hazard abatement project shall, during 34642
the course of the project: 34643

(1) Conduct each project in a manner that is in compliance 34644
with the requirements the director of environmental protection 34645
adopts pursuant to section 3704.03 of the Revised Code and the 34646
asbestos requirements of the United States occupational safety and 34647
health administration set forth in 29 C.F.R. 1926.58; 34648

(2) Comply with all applicable rules adopted by the ~~public~~ 34649
director of health council pursuant to section 3710.02 of the 34650
Revised Code. 34651

(B) An asbestos hazard abatement contractor that is a public 34652
entity shall: 34653

(1) Provide workers with protective clothing and equipment 34654
and ensure that the workers involved in any asbestos hazard 34655
abatement project use the items properly. Protective clothing and 34656
equipment shall include: 34657

(a) Respirators approved by the national institute of 34658

occupational safety and health. These respirators shall be fit 34659
tested in accordance with requirements of the United States 34660
occupational safety and health administration set forth in 29 34661
C.F.R. 1926.58(h). At the request of an employee, the asbestos 34662
hazard abatement contractor shall provide the employee with a 34663
powered air purifying respirator, in which case, the testing 34664
requirements of division (B)(1)(a) of this section do not apply. 34665

(b) Items required by the ~~public director of health council~~ 34666
by rule as provided in division (A)(7) of section 3710.02 of the 34667
Revised Code. 34668

(2) Comply with all applicable standards of conduct and 34669
requirements adopted by ~~the public health council and the director~~ 34670
of health pursuant to section 3710.02 of the Revised Code. 34671

(C) An asbestos hazard abatement specialist engaging in any 34672
asbestos hazard abatement project shall, during the course of the 34673
project: 34674

(1) Conduct each project in a manner that will meet 34675
decontamination procedures, project containment procedures, and 34676
asbestos fiber dispersal methods as provided in division (A)(6) of 34677
section 3710.02 of the Revised Code; 34678

(2) Ensure that workers utilize, handle, remove, and dispose 34679
of the disposable clothing provided by abatement contractors in a 34680
manner that will prevent contamination or recontamination of the 34681
environment and protect the public health from the hazards of 34682
exposure to asbestos; 34683

(3) Ensure that workers utilize protective clothing and 34684
equipment and comply with the applicable health and safety 34685
standards set forth in division (A) of section 3710.08 of the 34686
Revised Code; 34687

(4) Ensure that there is no smoking, eating, or drinking in 34688
the work area; 34689

(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 council~~ director of health 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 asbestos hazard abatement contractor licensed under this chapter shall maintain records of all asbestos hazard abatement projects which ~~he~~ the contractor performs and make these records available to the department of health upon request. The licensee shall maintain the records for at least thirty years.

(B) The records required by this section shall include all of the following:

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|--|---|
| (1) The name, social security number, and address of the person who supervised the asbestos hazard abatement project; | 34720 34721 |
| (2) The names and social security numbers of all workers at the job site; | 34722 34723 |
| (3) The location and description of the asbestos hazard abatement project and the amount of asbestos-containing material that was removed; | 34724 34725 34726 |
| (4) The starting and completion dates of each asbestos hazard abatement project; | 34727 34728 |
| (5) A summary of the procedures that were used to comply with all applicable federal, state, and local standards; | 34729 34730 |
| (6) The name and address of each asbestos disposal site where the waste containing asbestos was deposited; | 34731 34732 |
| (7) Any other information that the public <u>director of health council</u> , by rule, requires. | 34733 34734 |
| Sec. 3710.10. (A) No person other than the department of health shall conduct or offer to conduct any initial or review training course or examination required by this chapter unless that person is approved to sponsor the courses and examinations under this section. In conducting any such course or examination, the department and the approved person shall administer the courses and examinations according to the United States environmental protection agency "Model Accreditation Plan," 40 C.F.R. 763, Subpart E, Appendix C, and the rules of the public <u>director of health council</u> adopted pursuant to division (A)(3) of section 3710.02 of the Revised Code. A person may apply for approval or renewal of a course on the health and safety aspects of asbestos hazard abatement activities which meets the requirements of division (A)(3) of section 3710.07 of the Revised Code by submitting a written application on forms provided by the | 34735 34736 34737 34738 34739 34740 34741 34742 34743 34744 34745 34746 34747 34748 34749 |

department. 34750

(B) In order to obtain or renew department approval, a person 34751
sponsoring a course shall substantially satisfy all of the 34752
following criteria: 34753

(1) Provide courses of instruction and examinations that meet 34754
the requirements of division (A) of this section; 34755

(2) Ensure that instruction is given or supervised by 34756
personnel with sufficient education and experience as determined, 34757
~~by rule,~~ in rules adopted by the ~~public health council~~ director; 34758

(3) Maintain lists of students trained and the dates on which 34759
training occurred for at least twenty years, and make this 34760
information available to the department upon request. 34761

(C) In order to obtain or renew department approval, a person 34762
sponsoring an initial course or a review course annually shall 34763
apply to the department for approval. In applying, the person 34764
shall submit the fee set forth in division (D) of section 3710.05 34765
of the Revised Code along with any increase in fee adopted 34766
pursuant to division (A)(4) of section 3710.02 of the Revised 34767
Code. 34768

(D)(1) The department shall act or acknowledge receipt of an 34769
application within ten working days after receiving the 34770
application. 34771

(2) The department shall act on the application within ninety 34772
days after it is complete. 34773

(3) The department shall grant contingent approval of an 34774
application if the department determines the course substantially 34775
satisfies or will substantially satisfy the criteria in this 34776
chapter and the rules adopted by the ~~public health council~~ 34777
director. 34778

(4) The department may deny or revoke approval of a course if 34779

the department determines the course does not or will not 34780
substantially satisfy the criteria in this chapter or the rules 34781
adopted by the ~~public health council~~ director. 34782

(5) The department shall grant final approval of a course 34783
only after an on-site audit by the department which reveals that 34784
the course substantially satisfies the criteria in this chapter 34785
and the rules adopted by the ~~public health council~~ director. 34786
Course approvals expire one year from the date of final approval 34787
under division (D)(5) of this section. 34788

(E) Each course approval issued under this section expires 34789
one year after the date of issue, but a person who received 34790
approval may apply to the department for renewal under the 34791
standard renewal procedures of Chapter 4745. of the Revised Code. 34792
The fee prescribed in section 3710.05 of the Revised Code must 34793
accompany the application. 34794

Sec. 3710.12. Subject to the hearing provisions of this 34795
chapter, the department of health may deny, suspend, or revoke any 34796
license or certificate, or renewal thereof, if the licensee or 34797
certificate holder: 34798

(A) Fraudulently or deceptively obtains or attempts to obtain 34799
a license or certificate; 34800

(B) Fails at any time to meet the qualifications for a 34801
license or certificate; 34802

(C) Is violating or threatening to violate any provisions of 34803
any of the following: 34804

(1) This chapter or the rules of the ~~public health council~~ or 34805
director of health adopted pursuant thereto; 34806

(2) The "National Emission Standard for Hazardous Air 34807
Pollutants" regulations of the United States environmental 34808
protection agency as the regulations pertain to asbestos; ~~or~~ 34809

(3) The regulations of the United States occupational safety and health administration as the regulations pertain to asbestos.

Sec. 3710.13. (A) Except as otherwise provided in Chapter 119. of the Revised Code or this section, before the department of health takes any action under section 3710.12 of the Revised Code, it shall give the licensee or certificate holder against whom action is contemplated an opportunity for a hearing.

Except as otherwise provided in this section, the department shall give notice and hold the hearing in accordance with Chapter 119. of the Revised Code.

(B) The department, without notice or hearing and in accordance with ~~the rules of~~ adopted by the public director of health council, may issue an order requiring any action necessary to meet a public health emergency involving asbestos. Any person to whom an order is directed shall immediately comply with the order. Upon application to the director of health, the person shall be afforded a hearing as soon as possible, but no more than twenty days after receipt of the application by the director.

(C) If the director determines, pursuant to division (B) of this section, that a public health emergency exists, ~~he~~ the director may order, without a hearing, the denial, suspension, or revocation of any license or certificate issued under this chapter of the parties involved, provided that an opportunity for a hearing is provided to the affected party as soon as reasonably possible.

(D) All proceedings under this chapter are subject to Chapter 119. of the Revised Code, except that:

(1) Upon the request of a licensee or certificate holder, the location of an adjudicatory hearing is the county seat of the county in which the licensee or certificate holder conducts

business. 34840

(2) The director shall notify, by certified mail or personal 34841
delivery, a licensee or certificate holder that ~~he~~ the licensee or 34842
certificate holder is entitled to a hearing if ~~he~~ the licensee or 34843
certificate holder requests it, in writing, within ten days of the 34844
time that ~~he~~ the licensee or certificate holder receives the 34845
notice. If the licensee or certificate holder requests such a 34846
hearing, the director shall set the hearing date no later than ten 34847
days after the director receives the request. 34848

(3) The director shall not apply for or receive a 34849
postponement or continuation of an adjudication hearing. If a 34850
licensee or certificate holder requests a postponement or 34851
continuation of an adjudication hearing, the director only shall 34852
grant the request if the licensee or certificate holder 34853
demonstrates extreme hardship in complying with the hearing date. 34854
If the director grants a postponement or continuation on the 34855
grounds of extreme hardship, the director shall include in the 34856
record of the case, the nature and cause of the extreme hardship. 34857

(4) In lieu of an adjudicatory hearing required by this 34858
chapter, a licensee or certificate holder, by no later than the 34859
date set for a hearing pursuant to division (A)(3) of this 34860
section, may by written request to the director, request that the 34861
matter be resolved by the licensee or certificate holder 34862
submitting documents, papers, and other written evidence to the 34863
director to support ~~his~~ the licensee's or certificate holder's 34864
claim. 34865

(5) If the director appoints a referee or an examiner to 34866
conduct a hearing, all of the following apply: 34867

(a) The examiner or referee shall serve, by certified mail 34868
and within three business days of the conclusion of the hearing, a 34869
copy of the written adjudication report and ~~his~~ the referee's or 34870

examiner's recommendations, on the director and the affected 34871
licensee or certificate holder or the licensee's or certificate 34872
holder's attorney or other representative of record. 34873

(b) The licensee or certificate holder, within three business 34874
days of receipt of the report under division (D)(5)(a) of this 34875
section, may file with the director written objections to the 34876
report and recommendations. 34877

(c) The director shall consider any objections received under 34878
division (D)(5)(b) of this section prior to approving, modifying, 34879
or disapproving the report and recommendations. Within six 34880
business days of receiving the report under division (D)(5)(a) of 34881
this section, the director shall serve ~~his~~ the director's order, 34882
by certified mail, on the affected licensee or certificate holder 34883
or the licensee's or certificate holder's attorney or other 34884
representative of record. 34885

(6) If the director conducts an adjudicatory hearing under 34886
this chapter, ~~he~~ the director shall serve ~~his~~ the director's 34887
decision, by certified mail and within three business days of the 34888
conclusion of the hearing, on the affected licensee or certificate 34889
holder or the licensee's or certificate holder's attorney or other 34890
representative of record. 34891

(7) If no hearing is held, the director shall issue an order, 34892
by certified mail and within three business days of the last date 34893
possible for a hearing, based upon the record available to ~~him~~ the 34894
director, to the affected licensee or certificate holder or the 34895
licensee's or certificate holder's attorney or other 34896
representative of record. 34897

(8) A licensee or certificate holder shall file a notice of 34898
appeal to an adverse adjudication decision within fifteen days 34899
after receipt of the director's order. 34900

Sec. 3710.17. (A) Where any person is certified or licensed 34901
by the department of health to engage in asbestos hazard abatement 34902
or evaluation activity pursuant to this chapter, the liability of 34903
that person when performing such activity in accordance with 34904
procedures established pursuant to state or federal law for an 34905
injury to any individual or property caused or related to this 34906
activity shall be limited to acts or omissions of the person 34907
during the course of performing the activity which can be shown, 34908
based on a preponderance of the evidence, to have been negligent. 34909
For the purposes of this section, the demonstration that acts or 34910
omissions of a person performing asbestos hazard abatement or 34911
evaluation activities were in accordance with generally accepted 34912
practice and with procedures established by state or federal law 34913
at the time the abatement or evaluation activity was performed 34914
creates a rebuttable presumption that the acts or omissions were 34915
not negligent. 34916

(B) Where any person contracts with a certified asbestos 34917
hazard abatement specialist, asbestos hazard evaluation 34918
specialist, or other category of asbestos hazard specialist 34919
established by the ~~public~~ director of health council, or a 34920
licensed asbestos hazard abatement contractor, the liability of 34921
that person for asbestos-related injuries caused by ~~his~~ the 34922
person's contractee in the performance of asbestos hazard 34923
abatement or evaluation activities shall be limited to those 34924
asbestos-related injuries arising from acts which the person knew 34925
or could reasonably have been expected to know were not in 34926
accordance with generally accepted practice or with procedures 34927
established by state or federal law at the time the abatement 34928
activity took place. 34929

(C) Notwithstanding any other provisions of the Revised Code 34930
or rules of a court to the contrary, this section governs all 34931
claims for asbestos-related injuries arising from asbestos hazard 34932

abatement or evaluation activities. 34933

Sec. 3711.04. Each person seeking to operate a maternity 34934
unit, newborn care nursery, or maternity home shall apply to the 34935
director of health for a license under this chapter. The 34936
application shall be submitted in the form and manner prescribed 34937
by the ~~public health council~~ director in rules adopted under 34938
section 3711.12 of the Revised Code. 34939

A single application and license is required if an applicant 34940
will operate both a maternity unit and newborn care nursery. 34941

Sec. 3711.06. The director of health shall inspect each 34942
maternity unit, newborn care nursery, or maternity home for which 34943
a person has applied for an initial license under section 3711.04 34944
of the Revised Code prior to issuing the license. Inspections 34945
shall be conducted in accordance with inspection criteria, 34946
procedures, and guidelines adopted by the ~~public health council~~ 34947
director under section 3711.12 of the Revised Code. 34948

Sec. 3711.08. A license issued under this chapter is valid 34949
for three years, unless earlier revoked or suspended under section 34950
3711.14 of the Revised Code. The license may be renewed in the 34951
manner prescribed by the ~~public~~ director of health ~~council~~ in 34952
rules adopted under section 3711.12 of the Revised Code. The 34953
license renewal fee specified in the rules shall be paid not later 34954
than sixty days after the director of health mails an invoice for 34955
the fee to the license holder. A penalty of ten per cent of the 34956
amount of the renewal fee shall be assessed for each month the fee 34957
is overdue. 34958

Sec. 3711.12. (A) The ~~public~~ director of health ~~council~~ shall 34959
adopt rules in accordance with Chapter 119. of the Revised Code as 34960
the ~~council~~ director considers necessary to implement the 34961

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| requirements of this chapter for licensure and operation of | 34962 |
| maternity units, newborn care nurseries, and maternity homes. The | 34963 |
| rules shall include provisions for the following: | 34964 |
| (1) Licensure application forms and procedures; | 34965 |
| (2) Renewal procedures, including procedures that address the | 34966 |
| right of the director of health, at the director's sole | 34967 |
| discretion, to conduct an inspection prior to renewal of a | 34968 |
| license; | 34969 |
| (3) Initial license fees and license renewal fees; | 34970 |
| (4) Fees for inspections conducted by the director under | 34971 |
| section 3711.10 of the Revised Code; | 34972 |
| (5) Safety standards, quality-of-care standards, and | 34973 |
| quality-of-care data reporting requirements; | 34974 |
| (6) Reporting and auditing requirements; | 34975 |
| (7) Inspection criteria, procedures, and guidelines; | 34976 |
| (8) Any other rules necessary to implement this chapter. | 34977 |
| (B) When adopting rules under this section, the public health | 34978 |
| council <u>director</u> shall give consideration to recommendations | 34979 |
| regarding obstetric and newborn care issued by the American | 34980 |
| college of obstetricians and gynecologists; American academy of | 34981 |
| pediatrics; American academy of family physicians; American | 34982 |
| society of anesthesiologists; American college of nurse_midwives; | 34983 |
| United States centers for disease control and prevention; | 34984 |
| association of women's health, obstetric and neonatal nurses; and | 34985 |
| association of perioperative registered nurses, or their successor | 34986 |
| organizations. The council <u>director</u> shall also consider the | 34987 |
| recommendations of the maternity and newborn advisory council | 34988 |
| established in section 3711.20 of the Revised Code. | 34989 |
| | |
| Sec. 3711.21. The maternity and newborn advisory council | 34990 |

shall do all of the following: 34991

(A) Advise and consult with the director of health in the 34992
development of rules to be ~~presented to the public health council~~ 34993
~~for proposed adoption~~ adopted under this chapter; 34994

(B) Advise and consult with the director concerning the 34995
implementation and enforcement of this chapter; 34996

(C) Advise and consult with the director in the development 34997
of inspection criteria, procedures, and guidelines to be used in 34998
enforcement of this chapter; 34999

(D) Advise and consult with the director regarding 35000
recommendations ~~to be presented to the public health council~~ 35001
regarding improving maternity and newborn care in this state; 35002

(E) Prepare and submit to the director an annual report 35003
evaluating the department's enforcement of this chapter. 35004

Sec. 3712.03. (A) In accordance with Chapter 119. of the 35005
Revised Code, the ~~public director of health council~~ shall adopt, 35006
and may amend and rescind, rules: 35007

(1) Providing for the licensing of persons or public agencies 35008
providing hospice care programs within this state by the 35009
department of health and for the suspension and revocation of 35010
licenses; 35011

(2) Establishing a license fee and license renewal fee, 35012
neither of which shall, except as provided in division (B) of this 35013
section, exceed six hundred dollars. The fees shall cover the 35014
three-year period during which an existing license is valid as 35015
provided in division (B) of section 3712.04 of the Revised Code. 35016

(3) Establishing an inspection fee not to exceed, except as 35017
provided in division (B) of this section, one thousand seven 35018
hundred fifty dollars; 35019

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| (4) Establishing requirements for hospice care program | 35020 |
| facilities and services; | 35021 |
| (5) Providing for a waiver of the requirement for the | 35022 |
| provision of physical, occupational, or speech or language therapy | 35023 |
| contained in division (A)(2) of section 3712.01 of the Revised | 35024 |
| Code when the requirement would create a hardship because such | 35025 |
| therapy is not readily available in the geographic area served by | 35026 |
| the provider of a hospice care program; | 35027 |
| (6) Providing for the granting of licenses to provide hospice | 35028 |
| care programs to persons and public agencies that are accredited | 35029 |
| or certified to provide such programs by an entity whose standards | 35030 |
| for accreditation or certification equal or exceed those provided | 35031 |
| for licensure under this chapter and rules adopted under it; | 35032 |
| (7) Establishing interpretive guidelines for each rule. | 35033 |
| (B) Subject to the approval of the controlling board, the | 35034 |
| public health council <u>director</u> may establish fees in excess of the | 35035 |
| maximum amounts specified in this section, provided that the fees | 35036 |
| do not exceed those amounts by greater than fifty per cent. | 35037 |
| (C) The department of health shall: | 35038 |
| (1) Grant, suspend, and revoke licenses for hospice care | 35039 |
| programs in accordance with this chapter and rules adopted under | 35040 |
| it; | 35041 |
| (2) Make such inspections as are necessary to determine | 35042 |
| whether hospice care program facilities and services meet the | 35043 |
| requirements of this chapter and rules adopted under it; and | 35044 |
| (3) Implement and enforce this chapter and rules adopted | 35045 |
| under it. | 35046 |
| Sec. 3712.04. (A) Every person or public agency that proposes | 35047 |
| to provide a hospice care program shall apply to the department of | 35048 |
| health for a license. Application shall be made on forms | 35049 |

prescribed and provided by the department, shall include such 35050
information as the department requires, and shall be accompanied 35051
by the license fee established by rules of the ~~public~~ director of 35052
health ~~council~~ adopted under division (A) of section 3712.03 of 35053
the Revised Code. 35054

The department shall grant a license to the applicant if the 35055
applicant is in compliance with this chapter and rules adopted 35056
under it. 35057

(B) A license granted under this section shall be valid for 35058
three years. Application for renewal of a license shall be made at 35059
least ninety days before the expiration of the license in the same 35060
manner as for an initial license. The department shall renew the 35061
license if the applicant meets the requirements of this chapter 35062
and rules adopted under it. 35063

(C) Subject to Chapter 119. of the Revised Code, the 35064
department may suspend or revoke a license if the licensee made 35065
any material misrepresentation in the application for the license 35066
or no longer meets the requirements of this chapter or rules 35067
adopted under it. 35068

(D) A hospital, nursing home, home for the aged, county 35069
medical care facility, or other health facility or agency that 35070
provides a hospice care program shall be licensed to provide a 35071
hospice care program under this section. 35072

(E) A nursing home licensed under Chapter 3721. of the 35073
Revised Code that does not hold itself out to be a hospice, does 35074
not hold itself out as providing a hospice care program, does not 35075
use the term hospice to describe or refer to its activities or 35076
facilities, and that does not provide all of the services 35077
enumerated in division (A) of section 3712.01 of the Revised Code 35078
is not subject to the licensing provisions of this chapter. 35079

Sec. 3712.09. (A) As used in this section: 35080

(1) "Applicant" means a person who is under final 35081
consideration for employment with a hospice care program in a 35082
full-time, part-time, or temporary position that involves 35083
providing direct care to an older adult. "Applicant" does not 35084
include a person who provides direct care as a volunteer without 35085
receiving or expecting to receive any form of remuneration other 35086
than reimbursement for actual expenses. 35087

(2) "Criminal records check" ~~and "older adult"~~ have has the 35088
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 35089

(3) "Older adult" means a person age sixty or older. 35090

(B)(1) Except as provided in division (I) of this section, 35091
the chief administrator of a hospice care program shall request 35092
that the superintendent of the bureau of criminal identification 35093
and investigation conduct a criminal records check ~~with respect to~~ 35094
of each applicant. If an applicant for whom a criminal records 35095
check request is required under this division does not present 35096
proof of having been a resident of this state for the five-year 35097
period immediately prior to the date the criminal records check is 35098
requested or provide evidence that within that five-year period 35099
the superintendent has requested information about the applicant 35100
from the federal bureau of investigation in a criminal records 35101
check, the chief administrator shall request that the 35102
superintendent obtain information from the federal bureau of 35103
investigation as part of the criminal records check of the 35104
applicant. Even if an applicant for whom a criminal records check 35105
request is required under this division presents proof of having 35106
been a resident of this state for the five-year period, the chief 35107
administrator may request that the superintendent include 35108
information from the federal bureau of investigation in the 35109
criminal records check. 35110

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the ~~public~~ director of health council in accordance with division (F) of this section and subject to division (C)(2) of this section, no hospice 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, 35142
any other state, or the United States that is substantially 35143
equivalent to any of the offenses listed in division (C)(1)(a) of 35144
this section. 35145

(2)(a) A hospice care program may employ conditionally an 35146
applicant for whom a criminal records check request is required 35147
under division (B) of this section prior to obtaining the results 35148
of a criminal records check regarding the individual, provided 35149
that the program shall request a criminal records check regarding 35150
the individual in accordance with division (B)(1) of this section 35151
not later than five business days after the individual begins 35152
conditional employment. In the circumstances described in division 35153
(I)(2) of this section, a hospice care program may employ 35154
conditionally an applicant who has been referred to the hospice 35155
care program by an employment service that supplies full-time, 35156
part-time, or temporary staff for positions involving the direct 35157
care of older adults and for whom, pursuant to that division, a 35158
criminal records check is not required under division (B) of this 35159
section. 35160

(b) A hospice care program that employs an individual 35161
conditionally under authority of division (C)(2)(a) of this 35162
section shall terminate the individual's employment if the results 35163
of the criminal records check requested under division (B) of this 35164
section or described in division (I)(2) of this section, other 35165
than the results of any request for information from the federal 35166
bureau of investigation, are not obtained within the period ending 35167
thirty days after the date the request is made. Regardless of when 35168
the results of the criminal records check are obtained, if the 35169
results indicate that the individual has been convicted of or 35170
pleaded guilty to any of the offenses listed or described in 35171
division (C)(1) of this section, the program shall terminate the 35172
individual's employment unless the program chooses to employ the 35173

individual pursuant to division (F) of this section. Termination 35174
of employment under this division shall be considered just cause 35175
for discharge for purposes of division (D)(2) of section 4141.29 35176
of the Revised Code if the individual makes any attempt to deceive 35177
the program about the individual's criminal record. 35178

(D)(1) Each hospice care program shall pay to the bureau of 35179
criminal identification and investigation the fee prescribed 35180
pursuant to division (C)(3) of section 109.572 of the Revised Code 35181
for each criminal records check conducted pursuant to a request 35182
made under division (B) of this section. 35183

(2) A hospice care program may charge an applicant a fee not 35184
exceeding the amount the program pays under division (D)(1) of 35185
this section. A program may collect a fee only if both of the 35186
following apply: 35187

(a) The program notifies the person at the time of initial 35188
application for employment of the amount of the fee and that, 35189
unless the fee is paid, the person will not be considered for 35190
employment; 35191

(b) The medical assistance program established under Chapter 35192
5111. of the Revised Code does not reimburse the program the fee 35193
it pays under division (D)(1) of this section. 35194

(E) The report of a criminal records check conducted pursuant 35195
to a request made under this section is not a public record for 35196
the purposes of section 149.43 of the Revised Code and shall not 35197
be made available to any person other than the following: 35198

(1) The individual who is the subject of the criminal records 35199
check or the individual's representative; 35200

(2) The chief administrator of the program requesting the 35201
criminal records check or the administrator's representative; 35202

(3) The administrator of any other facility, agency, or 35203

program that provides direct care to older adults that is owned or 35204
operated by the same entity that owns or operates the hospice care 35205
program; 35206

(4) A court, hearing officer, or other necessary individual 35207
involved in a case dealing with a denial of employment of the 35208
applicant or dealing with employment or unemployment benefits of 35209
the applicant; 35210

(5) Any person to whom the report is provided pursuant to, 35211
and in accordance with, division (I)(1) or (2) of this section. 35212

(F) The ~~public director of health council~~ shall adopt rules 35213
in accordance with Chapter 119. of the Revised Code to implement 35214
this section. The rules shall specify circumstances under which a 35215
hospice care program may employ a person who has been convicted of 35216
or pleaded guilty to an offense listed or described in division 35217
(C)(1) of this section but meets personal character standards set 35218
by the ~~council~~ director. 35219

(G) The chief administrator of a hospice care program shall 35220
inform each individual, at the time of initial application for a 35221
position that involves providing direct care to an older adult, 35222
that the individual is required to provide a set of fingerprint 35223
impressions and that a criminal records check is required to be 35224
conducted if the individual comes under final consideration for 35225
employment. 35226

(H) In a tort or other civil action for damages that is 35227
brought as the result of an injury, death, or loss to person or 35228
property caused by an individual who a hospice care program 35229
employs in a position that involves providing direct care to older 35230
adults, all of the following shall apply: 35231

(1) If the program employed the individual in good faith and 35232
reasonable reliance on the report of a criminal records check 35233
requested under this section, the program shall not be found 35234

negligent solely because of its reliance on the report, even if 35235
the information in the report is determined later to have been 35236
incomplete or inaccurate; 35237

(2) If the program employed the individual in good faith on a 35238
conditional basis pursuant to division (C)(2) of this section, the 35239
program shall not be found negligent solely because it employed 35240
the individual prior to receiving the report of a criminal records 35241
check requested under this section; 35242

(3) If the program in good faith employed the individual 35243
according to the personal character standards established in rules 35244
adopted under division (F) of this section, the program shall not 35245
be found negligent solely because the individual prior to being 35246
employed had been convicted of or pleaded guilty to an offense 35247
listed or described in division (C)(1) of this section. 35248

(I)(1) The chief administrator of a hospice care program is 35249
not required to request that the superintendent of the bureau of 35250
criminal identification and investigation conduct a criminal 35251
records check of an applicant if the applicant has been referred 35252
to the program by an employment service that supplies full-time, 35253
part-time, or temporary staff for positions involving the direct 35254
care of older adults and both of the following apply: 35255

(a) The chief administrator receives from the employment 35256
service or the applicant a report of the results of a criminal 35257
records check regarding the applicant that has been conducted by 35258
the superintendent within the one-year period immediately 35259
preceding the applicant's referral; 35260

(b) The report of the criminal records check demonstrates 35261
that the person has not been convicted of or pleaded guilty to an 35262
offense listed or described in division (C)(1) of this section, or 35263
the report demonstrates that the person has been convicted of or 35264
pleaded guilty to one or more of those offenses, but the hospice 35265

care program chooses to employ the individual pursuant to division 35266
(F) of this section. 35267

(2) The chief administrator of a hospice care program is not 35268
required to request that the superintendent of the bureau of 35269
criminal identification and investigation conduct a criminal 35270
records check of an applicant and may employ the applicant 35271
conditionally as described in this division, if the applicant has 35272
been referred to the program by an employment service that 35273
supplies full-time, part-time, or temporary staff for positions 35274
involving the direct care of older adults and if the chief 35275
administrator receives from the employment service or the 35276
applicant a letter from the employment service that is on the 35277
letterhead of the employment service, dated, and signed by a 35278
supervisor or another designated official of the employment 35279
service and that states that the employment service has requested 35280
the superintendent to conduct a criminal records check regarding 35281
the applicant, that the requested criminal records check will 35282
include a determination of whether the applicant has been 35283
convicted of or pleaded guilty to any offense listed or described 35284
in division (C)(1) of this section, that, as of the date set forth 35285
on the letter, the employment service had not received the results 35286
of the criminal records check, and that, when the employment 35287
service receives the results of the criminal records check, it 35288
promptly will send a copy of the results to the hospice care 35289
program. If a hospice care program employs an applicant 35290
conditionally in accordance with this division, the employment 35291
service, upon its receipt of the results of the criminal records 35292
check, promptly shall send a copy of the results to the hospice 35293
care program, and division (C)(2)(b) of this section applies 35294
regarding the conditional employment. 35295

Sec. 3713.01. As used in sections 3713.01 to 3713.10 of the 35296
Revised Code: 35297

(A) "Person" has the same meaning as used in division (C) of section 1.59 of the Revised Code and also means any limited company, limited liability partnership, joint stock company, or other association.

(B) "Bedding" means any upholstered furniture, any mattress, upholstered spring, comforter, bolster, pad, cushion, pillow, mattress protector, quilt, and any other upholstered article, to be used for sleeping, resting, or reclining purposes, and any glider, hammock, or other substantially similar article that is wholly or partly upholstered.

(C) "Secondhand" means any article, or material, or portion thereof of which prior use has been made in any manner whatsoever.

(D) "Remade, repaired, or renovated articles not for sale" means any article that is remade, repaired, or renovated for and is returned to the owner for the owner's own use.

(E) "Sale," "sell," or "sold" shall, in the corresponding tense, mean sell, offer to sell, or deliver or consign in sale, or possess with intent to sell, or deliver in sale.

(F) "Upholstered furniture" means any article of furniture wholly or partly stuffed or filled with material and that is used or intended for use for sitting, resting, or reclining purposes.

(G) "Stuffed toy" means any article intended for use as a plaything or for an educational or recreational purpose that is wholly or partially stuffed with material.

(H) "Tag" or "label" means any material prescribed by the superintendent of ~~labor~~ industrial compliance to be attached to an article that contains information required under this chapter.

Sec. 3713.02. (A) Except as provided in section 3713.05 of the Revised Code, no person shall import, manufacture, renovate, wholesale, or reupholster stuffed toys or articles of bedding in

this state without first registering to do so with the 35328
superintendent of ~~labor~~ industrial compliance in accordance with 35329
section 3713.05 of the Revised Code. 35330

(B) No person shall manufacture, offer for sale, sell, 35331
deliver, or possess for the purpose of manufacturing, selling, or 35332
delivering, an article of bedding or a stuffed toy that is not 35333
labeled in accordance with section 3713.08 of the Revised Code. 35334

(C) No person shall manufacture, offer for sale, sell, 35335
deliver, or possess for the purpose of manufacturing, selling, or 35336
delivering, an article of bedding or a stuffed toy that is falsely 35337
labeled. 35338

(D) No person shall sell or offer for sale any secondhand 35339
article of bedding or any secondhand stuffed toy that has not been 35340
sanitized in accordance with section 3713.08 of the Revised Code. 35341

(E) The possession of any article of bedding or stuffed toy 35342
in the course of business by a person required to obtain 35343
registration under this chapter, or by that person's agent or 35344
servant shall be prima-facie evidence of the person's intent to 35345
sell the article of bedding or stuffed toy. 35346

Sec. 3713.03. The superintendent of ~~labor~~ industrial 35347
compliance in the department of commerce shall administer and 35348
enforce this chapter. 35349

Sec. 3713.04. (A) In accordance with Chapter 119. of the 35350
Revised Code, the superintendent of ~~labor~~ industrial compliance 35351
shall: 35352

(1) Adopt rules pertaining to the definition, name, and 35353
description of materials necessary to carry out this chapter; 35354

(2) Determine the testing standards, fees, and charges to be 35355
paid for making any test or analysis required pursuant to section 35356

3713.08 of the Revised Code. 35357

(B) In accordance with Chapter 119. of the Revised Code, the 35358
superintendent may adopt rules regarding the following: 35359

(1) Establishing an initial application fee or an annual 35360
registration renewal fee not more than fifty per cent higher than 35361
the fees set forth in section 4713.05 of the Revised Code; 35362

(2) Establishing standards, on a reciprocal basis, for the 35363
acceptance of labels and laboratory analyses from other states 35364
where the labeling requirements and laboratory analysis standards 35365
are substantially equal to the requirements of this state, 35366
provided the other state extends similar reciprocity to labels and 35367
laboratory analysis conducted under this chapter; 35368

(3) Any other rules necessary to administer and carry out 35369
this chapter. 35370

(C) The superintendent may do any of the following: 35371

(1) Issue administrative orders, conduct hearings, and take 35372
all actions necessary under the authority of Chapter 119. of the 35373
Revised Code for the administration of this chapter. The authority 35374
granted under this division shall include the authority to 35375
suspend, revoke, or deny registration under this chapter. 35376

(2) Establish and maintain facilities within the department 35377
of commerce to make tests and analysis of materials used in the 35378
manufacture of bedding and stuffed toys. The superintendent also 35379
may designate established laboratories in various sections of the 35380
state that are qualified to make these tests. If the 35381
superintendent exercises this authority, the superintendent shall 35382
adopt rules to determine the fees and charges to be paid for 35383
making the tests or analyses authorized under this section. 35384

(3) Exercise such other powers and duties as are necessary to 35385
carry out the purpose and intent of this chapter. 35386

Sec. 3713.05. (A) Applications to register to import, 35387
manufacture, renovate, wholesale, make, or reupholster stuffed 35388
toys or bedding in this state shall be made in writing on forms 35389
provided by the superintendent of ~~labor~~ industrial compliance. The 35390
application shall be accompanied by a registration fee of fifty 35391
dollars per person unless the applicant engages only in 35392
renovation, in which case the registration fee shall be 35393
thirty-five dollars. 35394

(B) Upon receipt of the application and the appropriate fee, 35395
the superintendent shall register the applicant and assign a 35396
registration number to the registrant. 35397

(C) Notwithstanding section 3713.02 of the Revised Code and 35398
division (A) of this section, the following are exempt from 35399
registration: 35400

(1) An organization described in section 501(c)(3) of the 35401
"Internal Revenue Code of 1986," and exempt from income tax under 35402
section 501(a) of that code and that is operated exclusively to 35403
provide recreation or social services; 35404

(2) A person who is not regularly engaged in the business of 35405
manufacturing, making, wholesaling, or importing stuffed toys but 35406
who manufactures or makes stuffed toys as a leisure pursuit and 35407
who sells one hundred or fewer stuffed toys within one calendar 35408
year; 35409

(3) A person who is not regularly engaged in the business of 35410
manufacturing, making, wholesaling, or importing quilts, 35411
comforters, pillows, or cushions, but who manufactures or makes 35412
these items as a leisure pursuit and who sells five or fewer 35413
quilts, ten or fewer comforters, or twenty or fewer pillows or 35414
cushions within one calendar year. 35415

(D) Notwithstanding division (C)(2) or (3) of this section, a 35416

person exempt under that division must attach a label to each 35417
stuffed toy that contains all of the following information: 35418

(1) The person's name and address; 35419

(2) A statement that the person is not registered by the 35420
state of Ohio; 35421

(3) A statement that the contents of the product have not 35422
been inspected. 35423

Sec. 3713.06. (A) Any person required to register under 35424
division (A) of section 3713.02 of the Revised Code who imports 35425
bedding or stuffed toys into this state for retail sale or use in 35426
this state and any person required to register under division (A) 35427
of section 3713.02 of the Revised Code who manufactures bedding or 35428
stuffed toys in this state for retail sale or use in this state 35429
shall submit a report to the superintendent of ~~labor~~ industrial 35430
compliance, in a form and manner prescribed by the superintendent. 35431
The form shall be submitted once every six months and shall show 35432
the total number of items of bedding or stuffed toys imported into 35433
this state or manufactured in this state. Each report shall be 35434
accompanied by a fee of four cents for each item of bedding or 35435
stuffed toy imported into this state or manufactured in this 35436
state. 35437

(B) Every importer, manufacturer, or wholesaler of stuffed 35438
toys or articles of bedding, and every mobile home and 35439
recreational vehicle dealer, conversion van dealer, secondhand 35440
dealer, and auction house shall retain records, designated by the 35441
superintendent in rule, for the time period established in rule. 35442

(C) Every importer, manufacturer, or wholesaler of stuffed 35443
toys or articles of bedding, and every mobile home and 35444
recreational vehicle dealer, conversion van dealer, secondhand 35445
dealer, and auction house shall make sufficient investigation of 35446

its records to ensure that the information reported to the 35447
superintendent under division (A) of this section is accurate. 35448

Sec. 3713.07. (A) Registration obtained under this chapter 35449
expires annually on the last day of the month in the month that 35450
the registration was obtained. The superintendent of ~~labor~~ 35451
industrial compliance shall renew the registration in accordance 35452
with Chapter 4745. of the Revised Code. 35453

(B) Failure on the part of any registrant to renew 35454
registration prior to its expiration, when notified as required in 35455
this section, shall not deprive the person of the right to renewal 35456
within the ninety days that follow expiration, but the fee to be 35457
paid for renewal after its expiration shall be one hundred dollars 35458
plus the standard registration fee for the registrant. 35459

(C) If a registrant fails to renew registration within ninety 35460
days of the date that it expired, the former registrant shall 35461
comply with the registration requirements under section 3713.05 of 35462
the Revised Code to obtain valid registration. 35463

Sec. 3713.08. (A) All persons required to register under 35464
division (A) of section 3713.02 of the Revised Code manufacturing, 35465
making, or wholesaling bedding or stuffed toys, or both, that are 35466
sold or offered for sale shall have the material content of their 35467
products tested and analyzed at an established laboratory 35468
designated by the superintendent of ~~labor~~ industrial compliance 35469
before the bedding or stuffed toys are sold or offered for sale. 35470

(B) Every stuffed toy or item of bedding sold or offered for 35471
sale shall have a label affixed to it that reports the contents of 35472
the stuffed toy or bedding material in conformity with 35473
requirements established by the superintendent, a registration 35474
number, and any other identifying information as required by the 35475
superintendent. 35476

(C) The seller of any secondhand articles of bedding or 35477
stuffed toys shall sanitize all items in accordance with rules 35478
established by the superintendent prior to the sale of or the 35479
offering for sale of any secondhand articles. 35480

(D) This section does not apply to any of the following: 35481

(1) Persons who meet the qualifications of division (C)(2) or 35482
(3) of section 3713.05 of the Revised Code; 35483

(2) The sale of furniture more than fifty years old; 35484

(3) The sale of furniture from the home of the owner directly 35485
to the purchaser. 35486

Sec. 3713.09. (A) The superintendent of ~~labor~~ industrial 35487
compliance may appoint inspectors and periodically inspect and 35488
investigate any establishment where bedding or stuffed toys are 35489
manufactured, made, remade, renovated, repaired, sanitized, sold, 35490
or offered for sale, or where previously used material is 35491
processed for use in the manufacture of bedding or stuffed toys. 35492

(1) Each inspector shall make a written report to the 35493
superintendent of each examination and inspection complete with 35494
the inspector's findings and recommendations. Inspectors may place 35495
"off sale" any article of bedding or stuffed toy offered for sale, 35496
or found in the possession of any person with the intent to sell, 35497
in violation of section 3713.02 of the Revised Code. Inspectors 35498
shall perform other duties related to inspection and examination 35499
as prescribed by the superintendent. 35500

(2) When articles are placed "off sale" under division (A)(1) 35501
of this section, they shall be tagged, and the tag shall not be 35502
removed except by an authorized representative of the division of 35503
~~labor~~ industrial compliance after the violator demonstrates to the 35504
satisfaction of the superintendent proof of compliance with the 35505
requirements of section 3713.08 of the Revised Code. 35506

(B)(1) When an inspector has cause to believe that any bedding or stuffed toy is not tagged or labeled in accordance with section 3713.08 of the Revised Code, the inspector may open any seam of the bedding or stuffed toy in question to examine the material used or contained within it and take a reasonable amount of the material for testing and analysis and, if necessary, examine any and all purchase records in order to determine the contents or the kind of material used in the bedding or stuffed toy in question. An inspector may seize and hold evidence of any article of bedding, stuffed toy, or material manufactured, made, possessed, renovated, remade, or repaired, sold, or offered for sale contrary to this chapter.

(2) Immediately after seizing articles believed to be in violation of this chapter, the inspector immediately shall report the seizure to the superintendent. The superintendent shall hold a hearing in accordance with Chapter 119. of the Revised Code or make a ruling in the matter. If the superintendent finds that the article of bedding, stuffed toy, or material is not in violation of this chapter, the superintendent shall order the item or items returned to the owner. If the superintendent finds a violation of this chapter, the superintendent may do either of the following:

(a) Return the articles to the owner for proper treatment, tagging or labeling, or other action as ordered by the superintendent, subject to the requirement that the articles be reinspected at cost to the owner, prior to being sold or offered for sale;

(b) Report the violation to the appropriate prosecuting attorney or city law director.

(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 35539
determine compliance with this chapter. The superintendent may 35540
enter into contracts, pursuant to procedures prescribed by the 35541
superintendent, with persons to examine these records to determine 35542
compliance with this chapter. These persons may collect and remit 35543
to the superintendent any amounts due under this chapter. 35544

(D) Records audited pursuant to division (C) of this section 35545
are confidential and shall not be disclosed except as required by 35546
section 149.43 of the Revised Code, or as the superintendent finds 35547
necessary for the proper administration of this chapter. 35548

(E) In the case of any investigation or examination, or both, 35549
that requires investigation or examination outside of this state 35550
of any importer, manufacturer, or wholesaler of stuffed toys or 35551
articles of bedding, or of any mobile home or recreational vehicle 35552
dealer, conversion van dealer, secondhand dealer, or auction 35553
house, the superintendent may require the investigated or examined 35554
person to pay the actual expense of the investigation or 35555
examination. The superintendent shall provide an itemized 35556
statement of actual expenses to the investigated or examined 35557
person. 35558

(F) Whenever the superintendent has reason to believe, from 35559
the superintendent's own information, upon complaint, or 35560
otherwise, that any person has engaged in, is engaging in, or is 35561
about to engage in any practice prohibited by this chapter, or 35562
when the superintendent has reason to believe that it is necessary 35563
for public health and safety, the superintendent may do any of the 35564
following: 35565

(1) Investigate violations of this chapter, and for that 35566
purpose, may subpoena witnesses in connection with the 35567
investigation. The superintendent may make application to the 35568
appropriate court of common pleas for an order enjoining the 35569
violation of this chapter, and upon a showing by the 35570

superintendent that any registrant or person acting in a manner 35571
that requires registration has violated or is about to violate 35572
this chapter, an injunction, restraining order, or other order as 35573
may be appropriate shall be granted by the court. 35574

(2) Compel by subpoena the attendance of witnesses to testify 35575
in relation to any matter over which the superintendent has 35576
jurisdiction and that is the subject of inquiry and investigation 35577
by the superintendent, and require the production of any book, 35578
paper, or document pertaining to the matter. In case any person 35579
fails to file any statement or report, obey any subpoena, give 35580
testimony, or produce any books, records, or papers as required by 35581
a subpoena, the court of common pleas of any county in the state, 35582
upon application made to it by the superintendent, shall compel 35583
obedience by attachment proceedings for contempt. 35584

(3) Suspend or revoke the registration of any importer, 35585
manufacturer, or wholesaler of stuffed toys or articles of 35586
bedding, mobile home or recreational vehicle dealer, conversion 35587
van dealer, secondhand dealer, or auction house; 35588

(4) Submit evidence of the violation or violations to any 35589
city prosecutor, city director of law, or prosecuting attorney 35590
with authority to prosecute. If the city prosecutor, city director 35591
of law, or prosecuting attorney with authority to prosecute fails 35592
to prosecute, the superintendent shall submit the evidence to the 35593
attorney general who may proceed with the prosecution. 35594

Sec. 3713.10. All money collected under this chapter shall be 35595
deposited into the state treasury to the credit of the ~~labor~~ 35596
industrial compliance operating fund created under section 121.084 35597
of the Revised Code. 35598

Sec. 3714.073. (A) In addition to the fee levied under 35599
division (A)(1) of section 3714.07 of the Revised Code, beginning 35600

July 1, 2005, there is hereby levied on the disposal of 35601
construction and demolition debris at a construction and 35602
demolition debris facility that is licensed under this chapter or 35603
at a solid waste facility that is licensed under Chapter 3734. of 35604
the Revised Code the following fees: 35605

(1) A fee of twelve and one-half cents per cubic yard or 35606
twenty-five cents per ton, as applicable, the proceeds of which 35607
shall be deposited in the state treasury to the credit of the soil 35608
and water conservation district assistance fund created in section 35609
1515.14 of the Revised Code; 35610

(2) A fee of thirty-seven and one-half cents per cubic yard 35611
or seventy-five cents per ton, as applicable, the proceeds of 35612
which shall be deposited in the state treasury to the credit of 35613
the recycling and litter prevention fund created in section 35614
~~1502.02~~ 3736.03 of the Revised Code. 35615

(B) The owner or operator of a construction and demolition 35616
debris facility or a solid waste facility, as a trustee of the 35617
state, shall collect the fees levied under this section and remit 35618
the money from the fees in the manner that is established in 35619
divisions (A)(2) and (3) of section 3714.07 of the Revised Code 35620
for the fee that is levied under division (A)(1) of that section 35621
and may enter into an agreement for the quarterly payment of the 35622
fees in the manner established in division (B) of that section for 35623
the quarterly payment of the fee that is levied under division 35624
(A)(1) of that section. 35625

(C) The money that is collected from a construction and 35626
demolition debris facility or a solid waste facility and remitted 35627
to a board of health or the director of environmental protection, 35628
as applicable, pursuant to this section shall be transmitted by 35629
the board or director to the treasurer of state not later than 35630
forty-five days after the receipt of the money to be credited to 35631

the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.

(D) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(E) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(1) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(2) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

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| Sec. 3715.01. (A) As used in this chapter: | 35663 |
| (1) "Public health council" means the public health council established by section 3701.33 of the Revised Code. | 35664 35665 |
| (2) "Person" means an individual, partnership, corporation, or association. | 35666 35667 |
| (3) <u>(2)</u> "Food" means: | 35668 |
| (a) Articles used for food or drink for humans or animals; | 35669 |
| (b) Chewing gum; | 35670 |
| (c) Articles used for components of any such articles. | 35671 |
| (4) <u>(3)</u> "Drug" means: | 35672 |
| (a) Articles recognized in the United States pharmacopoeia and national formulary, or any supplement to them; | 35673 35674 |
| (b) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; | 35675 35676 35677 |
| (c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals; | 35678 35679 |
| (d) Articles intended for use as a component of any of the foregoing articles, other than devices or their components, parts, or accessories. | 35680 35681 35682 |
| (5) <u>(4)</u> "Device," except when used in division (B)(1) of this section and in division (A)(10) of section 3715.52, division (F) of section 3715.60, division (A)(5) of section 3715.64, and division (C) of section 3715.67 of the Revised Code, means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, that is any of the following: | 35683 35684 35685 35686 35687 35688 35689 |
| (a) Recognized in the United States pharmacopoeia and | 35690 |

national formulary, or any supplement to them; 35691

(b) Intended for use in the diagnosis of disease or other 35692
conditions, or in the cure, mitigation, treatment, or prevention 35693
of disease in humans or animals; 35694

(c) Intended to affect the structure or any function of the 35695
body of humans or animals, and that does not achieve any of its 35696
principal intended purposes through chemical action within or on 35697
the body of humans or animals and is not dependent upon being 35698
metabolized for the achievement of any of its principal intended 35699
purposes. 35700

~~(6)~~(5) "Cosmetic" means: 35701

(a) Articles intended to be rubbed, poured, sprinkled, or 35702
sprayed on, introduced into, or otherwise applied to the human 35703
body or any part thereof for cleansing, beautifying, promoting 35704
attractiveness, or altering the appearance; 35705

(b) Articles intended for use as a component of any such 35706
article, except that "cosmetic" does not include soap. 35707

~~(7)~~(6) "Label" means a display of written, printed, or 35708
graphic matter upon the immediate container, exclusive of package 35709
liners, of any article. 35710

Any word, statement, or other information required by this 35711
chapter to appear on the label must appear on the outside 35712
container or wrapper, if any, of the retail package of the 35713
article, or the label must be easily legible through the outside 35714
container or wrapper. 35715

~~(8)~~(7) "Labeling" means all labels and other written, 35716
printed, or graphic matter: 35717

(a) Upon an article or any of its containers or wrappers; 35718

(b) Accompanying such article. 35719

~~(9)~~(8) "Advertisement" means all representations disseminated 35720

in any manner or by any means, other than by labeling, for the 35721
purpose of inducing, or that are likely to induce, directly or 35722
indirectly, the purchase of food, drugs, devices, or cosmetics. 35723

~~(10)~~(9) "New drug" means: 35724

(a) Any drug the composition of which is such that the drug 35725
is not generally recognized among experts qualified by scientific 35726
training and experience to evaluate the safety of drugs, as safe 35727
for use under the conditions prescribed, recommended, or suggested 35728
in the labeling thereof; 35729

(b) Any drug the composition of which is such that the drug, 35730
as a result of investigation to determine its safety for use under 35731
such conditions, has become so recognized, but that has not, other 35732
than in an investigation, been used to a material extent or for a 35733
material time under such conditions. 35734

~~(11)~~(10) "Contaminated with filth" applies to any food, drug, 35735
device, or cosmetic that has not been protected as far as may be 35736
necessary by all reasonable means from dust, dirt, and all foreign 35737
or injurious substances. 35738

~~(12)~~(11) "Honey" means the nectar and saccharine exudation of 35739
plants that has been gathered, modified, and stored in a honeycomb 35740
by honeybees. 35741

~~(13)~~(12) "Finished dosage form" means the form of a drug that 35742
is, or is intended to be, dispensed or administered to humans or 35743
animals and requires no further manufacturing or processing other 35744
than packaging, reconstituting, or labeling. 35745

~~(14)~~(13)(a) "Manufacture" means the planting, cultivating, 35746
harvesting, processing, making, preparing, or otherwise engaging 35747
in any part of the production of a drug by propagating, 35748
compounding, converting, or processing, either directly or 35749
indirectly by extracting from substances of natural origin, or 35750
independently by means of chemical synthesis, or by a combination 35751

of extraction and chemical synthesis, and includes the following: 35752

(i) Any packaging or repackaging of the drug or labeling or 35753
relabeling of its container, the promotion and marketing of the 35754
drug, and other activities incident to production; 35755

(ii) The preparation and promotion of commercially available 35756
products from bulk compounds for resale by pharmacies, licensed 35757
health professionals authorized to prescribe drugs, or other 35758
persons. 35759

(b) "Manufacture" does not include the preparation, 35760
compounding, packaging, or labeling of a drug by a pharmacist as 35761
an incident to either of the following: 35762

(i) Dispensing a drug in the usual course of professional 35763
practice; 35764

(ii) Providing a licensed health professional authorized to 35765
prescribe drugs with a drug for the purpose of administering to 35766
patients or for using the drug in treating patients in the 35767
professional's office. 35768

~~(15)~~(14) "Dangerous drug" has the same meaning as in section 35769
4729.01 of the Revised Code. 35770

~~(16)~~(15) "Generically equivalent drug" means a drug that 35771
contains identical amounts of the identical active ingredients, 35772
but not necessarily containing the same inactive ingredients, that 35773
meets the identical compendial or other applicable standard of 35774
identity, strength, quality, and purity, including potency, and 35775
where applicable, content uniformity, disintegration times, or 35776
dissolution rates, as the prescribed brand name drug and the 35777
manufacturer or distributor holds, if applicable, either an 35778
approved new drug application or an approved abbreviated new drug 35779
application unless other approval by law or from the federal food 35780
and drug administration is required. 35781

No drug shall be considered a generically equivalent drug for 35782
the purposes of this chapter if it has been listed by the federal 35783
food and drug administration as having proven bioequivalence 35784
problems. 35785

~~(17)~~(16) "Licensed health professional authorized to 35786
prescribe drugs" and "prescriber" have the same meanings as in 35787
section 4729.01 of the Revised Code. 35788

~~(18)~~(17) "Home" means the primary residence occupied by the 35789
residence's owner, on the condition that the residence contains 35790
only one stove or oven used for cooking, which may be a double 35791
oven, designed for common residence usage and not for commercial 35792
usage, and that the stove or oven be operated in an ordinary 35793
kitchen within the residence. 35794

~~(19)~~(18) "Potentially hazardous food" means a food that is 35795
natural or synthetic, to which any of the following apply: 35796

(a) It has a pH level greater than 4.6 when measured at 35797
seventy-five degrees fahrenheit or twenty-four degrees celsius. 35798

(b) It has a water activity value greater than 0.85. 35799

(c) It requires temperature control because it is in a form 35800
capable of supporting the rapid and progressive growth of 35801
infectious or toxigenic microorganisms, the growth and toxin 35802
production of clostridium botulinum, or in the case of raw shell 35803
eggs, the growth of salmonella enteritidis. 35804

~~(20)~~(19) "Cottage food production operation" means a person 35805
who, in the person's home, produces food items that are not 35806
potentially hazardous foods, including bakery products, jams, 35807
jellies, candy, fruit butter, and similar products specified in 35808
rules adopted pursuant to section 3715.025 of the Revised Code. 35809

(B) For the purposes of sections 3715.52 to 3715.72 of the 35810
Revised Code: 35811

(1) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequence which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

(2) The provisions regarding the selling of food, drugs, devices, or cosmetics include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment. The provisions do not prohibit a licensed health professional authorized to prescribe drugs from administering or personally furnishing a drug or device to a patient.

(3) The representation of a drug, in its labeling or advertisement, as an antiseptic is a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use that involves prolonged contact with the body.

(4) Whenever jurisdiction is vested in the director of agriculture or the state board of pharmacy, the jurisdiction of the board shall be limited to the sale, offering for sale, giving away, delivery, or dispensing in any manner of drugs at the

wholesale and retail levels or to the consumer and shall be 35844
exclusive in the case of such sale, offering for sale, giving 35845
away, delivery, or dispensing in any manner of drugs at the 35846
wholesale and retail levels or to the consumer in any place where 35847
prescriptions are dispensed or compounded. 35848

(5) To assist in effectuating the provisions of those 35849
sections, the director of agriculture or state board of pharmacy 35850
may request assistance or data from any government or private 35851
agency or individual. 35852

Sec. 3715.025. (A) A cottage food production operation shall 35853
not process acidified foods, low acid canned foods, or potentially 35854
hazardous foods. 35855

(B) The director of agriculture shall adopt rules in 35856
accordance with Chapter 119. of the Revised Code specifying the 35857
food items a cottage food production operation may produce that 35858
are in addition to the food items identified by name in division 35859
(A)~~(20)~~(19) of section 3715.01 of the Revised Code. The director 35860
shall not adopt rules that permit a cottage food production 35861
operation to produce any food that is a potentially hazardous 35862
food. 35863

Sec. 3715.60. Food is misbranded within the meaning of 35864
sections 3715.01, 3715.02, 3715.022, and 3715.52 to 3715.72 of the 35865
Revised Code, if: 35866

(A) Its labeling is false or misleading in any particular. 35867

(B) It is offered for sale under the name of another food. 35868

(C) Its container is so made, formed, or filled as to be 35869
misleading. 35870

(D) It is an imitation of another food, unless its label 35871
bears in type of uniform size and prominence, the word 35872

"imitation," and immediately thereafter the name of the food 35873
imitated. 35874

(E) When it is in package form, it does not bear a label 35875
containing: 35876

(1) The name and place of business of the manufacturer, 35877
packer, or distributor; 35878

(2) An accurate statement of the quantity of the contents in 35879
terms of weight, measure, or numerical count; provided, that 35880
reasonable variations shall be permitted, and exemptions as to 35881
small packages shall be established by rules adopted by the 35882
director of agriculture; 35883

(3) In the case of food subject to section 3715.023 of the 35884
Revised Code, the information specified in that section. 35885

(F) Any word, statement, or other information required by or 35886
under authority of sections 3715.01, 3715.02, and 3715.52 to 35887
3715.72 of the Revised Code, to appear on the label or labeling is 35888
not prominently placed thereon with such conspicuousness as 35889
compared with other words, statements, designs, or devices, in the 35890
labeling, and in such terms as to render it likely to be read and 35891
understood by the ordinary individual under customary conditions 35892
of purchase and use. 35893

(G) It purports to be, or is represented as, a food for which 35894
a definition and standard of identity have been prescribed by 35895
statute, or by any rule adopted under an existing statute, or by 35896
rule as provided by section 3715.02 of the Revised Code, unless: 35897

(1) It conforms to such definition and standard. 35898

(2) Its label bears the name of the food specified in the 35899
definition and standard, and, insofar as may be required by such 35900
statute or rules, the common names of optional ingredients, other 35901
than spices, flavoring, and coloring, present in such food. 35902

(H) It purports to be or is represented as: 35903

(1) A food for which a standard of quality has been 35904
prescribed by rule as provided by section 3715.02 of the Revised 35905
Code and its quality falls below the standard unless its label 35906
bears, in the manner and form that the rules specify, a statement 35907
that it falls below the standard; 35908

(2) A food for which a standard or standards of fill of 35909
container have been prescribed by rule as provided by section 35910
3715.02 of the Revised Code, and it falls below the standard of 35911
fill of container applicable thereto, unless its label bears, in 35912
the manner and form that the rules specify, a statement that it 35913
falls below the standard. 35914

(I) It is not subject to the provisions of division (G) of 35915
this section, unless it bears labeling clearly giving: 35916

(1) The common or usual name of the food, if any; 35917

(2) In case it is fabricated from two or more ingredients, 35918
the common or usual name of each ingredient; except that spices, 35919
flavorings, and colorings, other than those sold as such, may be 35920
designated as spices, flavorings, and colorings, without naming 35921
each; provided, that, to the extent that compliance with the 35922
requirements of division (I)(2) of this section is impractical or 35923
results in deception or unfair competition, exemptions shall be 35924
established by rules adopted by the director; and provided that 35925
these requirements shall not apply to any carbonated beverage of 35926
which a full and correct statement of the ingredients, to the 35927
extent prescribed by division (I)(2) of this section, has been 35928
filed under oath with the director. 35929

(J) It purports to be or is represented to be for special 35930
dietary uses, unless its label bears such information concerning 35931
its vitamin, mineral, and other dietary properties as is provided 35932
by rules ~~proposed~~ adopted by the director ~~and adopted by the~~ 35933

~~public health council~~, as necessary, in order to fully inform 35934
purchasers as to its value for such uses. 35935

(K) It bears or contains any artificial flavoring, artificial 35936
coloring, or chemical preservative, unless it bears labeling 35937
stating that fact; provided, that to the extent that compliance 35938
with the requirements of this division is impracticable, 35939
exemptions shall be established by rules ~~proposed~~ adopted by the 35940
director ~~and adopted by the public health council~~. 35941

Sec. 3715.61. (A) Whenever the director of agriculture finds 35942
after investigation that the distribution in this state of any 35943
class of food may, by reason of contamination with microorganisms 35944
during manufacture, processing, or packing thereof in any 35945
locality, be injurious to health, and that such injurious nature 35946
cannot be adequately determined after such articles have entered 35947
commerce, and in such case only, ~~he the director~~ shall ~~propose~~ 35948
~~regulations for adoption by the public health council~~ adopt rules 35949
providing for the issuance, to manufacturers, processor, or 35950
packers of such class of food in such locality, of permits to 35951
which shall be attached such conditions governing the manufacture, 35952
processing, or packing of such class food, for such temporary 35953
period of time, as may be necessary to protect the public health; 35954
and after the effective date of such regulations, and during such 35955
temporary period, no person shall introduce or deliver for 35956
introduction into commerce any such food manufactured, processed, 35957
or packed by any such manufacturer, processor, or packer unless 35958
such manufacturer, processor, or packer holds a permit issued by 35959
the director as provided by such ~~regulations~~ rules. 35960

(B) The director is authorized to suspend immediately upon 35961
notice any permit issued under authority of this section if it is 35962
found that any of the conditions of the permit have been violated. 35963
The holder of a permit so suspended shall be privileged at any 35964

time to apply for the reinstatement of such permit, and the 35965
director shall, immediately after prompt hearing and on inspection 35966
of the establishment, reinstate such permit if it is found that 35967
adequate measures have been taken to comply with and maintain the 35968
conditions of the permit, as originally issued, or as amended. 35969

(C) The director shall have access to any factory or 35970
establishment, the operator of which holds a permit from the 35971
director for the purpose of ascertaining whether or not the 35972
conditions of the permit are being complied with, and denial of 35973
access for such inspection shall be ground for suspension of the 35974
permit until such access is freely given by the operator. 35975

Sec. 3715.62. Any poisonous or deleterious substance added to 35976
any food, except where such substance is required in the 35977
production thereof or cannot be avoided by good manufacturing 35978
practice, shall be unsafe for purposes of the application of 35979
division (B) of section 3715.59 of the Revised Code, but when such 35980
substance is so required or cannot be so avoided, the director of 35981
agriculture shall ~~propose regulations for adoption by the public~~ 35982
~~health council~~ adopt rules limiting the quantity therein or 35983
thereon to such extent as the director finds necessary for the 35984
protection of public health, and any quantity exceeding the limits 35985
so fixed shall also be deemed to be unsafe for purposes of the 35986
application of division (B) of section 3715.59 of the Revised 35987
Code. While such a regulation is in effect limiting the quantity 35988
of any such substance in the case of any food, such food shall 35989
not, by reason of bearing or containing any added amount of such 35990
substance, be considered to be adulterated within the meaning of 35991
division (A) of section 3715.59 of the Revised Code. In 35992
determining the quantity of such added substance to be tolerated 35993
in or on different articles of food, the director shall take into 35994
account the extent to which the use of such substance is required 35995
or cannot be avoided in the production of each such article and 35996

the other ways in which the consumer may be affected by the same 35997
or other poisonous or deleterious substances. 35998

Sec. 3715.68. (A) An advertisement of food, drug, device, or 35999
cosmetic is false if it is false or misleading in any particular. 36000

(B) For the purpose of sections 3715.01 and 3715.52 to 36001
3715.72 of the Revised Code, the advertisement of a drug or device 36002
representing it to have any effect in albuminuria, appendicitis, 36003
arteriosclerosis, blood poison, bone disease, Bright's disease, 36004
cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, 36005
erysipelas, gallstones, heart and vascular diseases, high blood 36006
pressure, mastoiditis, measles, meningitis, mumps, nephritis, 36007
otitis media, paralysis, pneumonia, poliomyelitis (infantile 36008
paralysis), prostate gland disorders, pyelitis, scarlet fever, 36009
sexual impotence, sinus infection, tuberculosis, tumors, typhoid, 36010
uremia, venereal disease, is also false, except that no 36011
advertisement not in violation of division (A) of this section is 36012
false under this division if it is disseminated only to members of 36013
the medical, dental, pharmaceutical, or veterinary profession, or 36014
appears only in the scientific periodicals of these professions; 36015
provided, that whenever the director of agriculture determines 36016
that an advance in medical science has made any type of 36017
self-medication safe as to any of the diseases named above, the 36018
director shall ~~propose regulations for adoption by the public~~ 36019
~~health council~~ adopt rules authorizing the advertisement of drugs 36020
having curative or therapeutic effect for such disease, subject to 36021
such conditions and restrictions as the director may deem 36022
necessary in the interests of public health; provided, that this 36023
division shall not be construed as indicating that self-medication 36024
for diseases other than those named in this section is safe or 36025
efficacious. 36026

Sec. 3716.01. As used in sections 3716.01 to 3716.07, 36027

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| inclusive, of the Revised Code: | 36028 |
| (A) "Department" means the department of health. | 36029 |
| (B) "Director" means the director of health. | 36030 |
| (C) "Person" includes an individual, partnership, corporation, or association. | 36031 36032 |
| (D) "Hazardous substance" means any substance or mixture of substances which is toxic, corrosive, an irritant, strong sensitizer, flammable, or which generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or illness during any customary or reasonably anticipated handling or use. | 36033 36034 36035 36036 36037 36038 |
| (E) "Toxic" applies to any substance which has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface. | 36039 36040 36041 |
| (F)(1) "Highly toxic" means any substance which falls within any of the following categories: | 36042 36043 |
| (a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered; | 36044 36045 36046 36047 36048 |
| (b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas, vapor, mist, or dust provided such concentration is likely to be encountered by man <u>a human being</u> when the substance is used in any reasonably foreseeable manner; | 36049 36050 36051 36052 36053 36054 36055 36056 |
| (c) Produces death within fourteen days in half or more than | 36057 |

half of a group of ten or more rabbits tested in a dosage of two 36058
hundred milligrams or less per kilogram of body weight, when 36059
administered by continuous contact with the bare skin for 36060
twenty-four hours or less. 36061

(2) If the director finds that available data on human 36062
experience with any substance indicates results different from 36063
those obtained on animals in the above named dosages or 36064
concentrations, the human data shall take precedence. 36065

(G) "Corrosive" means any substance which in contact with 36066
living tissue will cause destruction of tissue by chemical action; 36067
but shall not refer to action on inanimate surfaces. 36068

(H) "Irritant" means any substance not corrosive within the 36069
meaning of division (G) of this section which on immediate, 36070
prolonged, or repeated contact with normal living tissue will 36071
induce a local inflammatory reaction. 36072

(I) "Strong sensitizer" means any substance which will cause 36073
on normal living tissue, through an allergic or photodynamic 36074
process, a hypersensitivity which becomes evident on reapplication 36075
of the same substance and which is designated as such by the 36076
director. Before designating any substance as a strong sensitizer, 36077
the director shall, after public hearing following due notice, 36078
find that the frequency of occurrence and severity of the reaction 36079
indicate a significant potential for causing hypersensitivity. 36080

(J) "Extremely flammable" applies to any substance which has 36081
a flash point at or below twenty degrees Fahrenheit as determined 36082
by the tagliabue open cut tester. 36083

(K) "Flammable" applies to any substance which has a flash 36084
point of above twenty degrees to and including eighty degrees 36085
Fahrenheit, as determined by the tagliabue open cut tester; except 36086
that the flammability of the contents of self-pressurized 36087
containers shall be determined by methods generally applicable to 36088

such containers and established by regulation of the ~~public health~~ 36089
~~ecouncil~~ director. 36090

(L) "Label" means a display of written, printed, or graphic 36091
matter upon or attached to the immediate package or container of 36092
any substance. Any word, statement, or other information required 36093
by sections 3716.01 to 3716.07, inclusive, of the Revised Code, to 36094
appear on the label must also appear (1) on the outside container 36095
or wrapper, if any, unless it is easily legible through the 36096
outside container or wrapper, and (2) on all accompanying 36097
literature where there are directions for use, written or 36098
otherwise. 36099

(M) "Immediate container" does not include package liners. 36100

(N) "Misbranded package" means any container of a hazardous 36101
substance intended or suitable for household use which fails to 36102
bear a label: 36103

(1) Which states conspicuously: 36104

(a) The name and place of business of the manufacturer, 36105
packer, or distributor; 36106

(b) The common or usual name, or the chemical name or the 36107
recognized generic name (not trade name only) of the hazardous 36108
substance or of each component which contributes substantially to 36109
its hazard; 36110

(c) The signal word "DANGER" on substances which are 36111
extremely flammable, corrosive, or which: 36112

(i) Produce death within fourteen days in half or more than 36113
half of a group of ten or more laboratory white rats each weighing 36114
between two hundred and three hundred grams, at a single dose of 36115
one gram or less per kilogram of body weight, when orally 36116
administered; 36117

(ii) Produce death within fourteen days in half or more than 36118

half of a group of ten or more laboratory white rats each weighing 36119
between two hundred and three hundred grams, when inhaled 36120
continuously for a period of one hour or less at an atmospheric 36121
concentration of two thousand parts per million by volume of gas, 36122
vapor, mist, or dust, provided such concentration is likely to be 36123
encountered by ~~man~~ a human being when the substances are used in 36124
any reasonably foreseeable manner; 36125

(iii) Produce death within fourteen days in half or more than 36126
half of a group of ten or more rabbits tested in a dosage of one 36127
gram or less per kilogram of body weight, when administered by 36128
continuous contact with the bare skin for twenty-four hours or 36129
less; 36130

(iv) If the director finds that available data on human 36131
experience with any substance indicates results different from 36132
those obtained on animals in the above named dosages or 36133
concentrations, ~~he~~ the director may require the use of the signal 36134
word "DANGER" on such substance or permit use of the signal word 36135
"WARNING" or "CAUTION" on such substance. 36136

(d) The signal word "WARNING" or "CAUTION" on all other 36137
hazardous substances; 36138

(e) An affirmative statement of the principal hazard or 36139
hazards, such as "Flammable," "Vapor Harmful," "Causes Burns," 36140
"Absorbed Through Skin," or similar wording descriptive of the 36141
hazard; 36142

(f) Precautionary measures describing the action to be 36143
followed or avoided; 36144

(g) Instructions, when necessary, for the first-aid treatment 36145
in case of contact or exposure, if the substance is hazardous 36146
through contact or exposure; 36147

(h) The word "poison" for any hazardous substance which is 36148
defined as "highly toxic" by division (F) of this section; 36149

(i) Instructions for handling and storage of packages which 36150
require special care in handling or storage; 36151

(j) The statement "Keep out of the reach of children," or its 36152
practical equivalent. 36153

(2) On which any statements required under division (N) (1) 36154
of this section are located prominently and are in the English 36155
language in legible type in contrast by typography, layout, or 36156
color with other printed matter on the label. 36157

The ~~public health council~~ director shall, by regulations, 36158
provide for minimum information which shall appear on the labels 36159
for small packages, which labels need not include all of the 36160
information required by this section. The director may permit less 36161
than the foregoing statement of the hazard or precautionary 36162
measures for labels of hazardous substances presenting only minor 36163
hazards; and the term "misbranded package" does not apply to 36164
packages of economic poisons subject to the "Federal Insecticide, 36165
Fungicide, and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A. 36166
135, nor to packages of foods, drugs, and cosmetics subject to the 36167
"Federal Food, Drug, and Cosmetic Act," nor to sections 3715.01 to 36168
3715.72, inclusive, of the Revised Code. 36169

Sec. 3716.03. The director of health shall: 36170

(A) ~~Propose and submit regulations for adoption by the public~~ 36171
~~health council, subject to sections 119.01 to 119.13, inclusive,~~ 36172
Adopt rules in accordance with Chapter 119. of the Revised Code, 36173
for the efficient enforcement of section 3716.02 of the Revised 36174
Code; 36175

(B) Conduct examinations, inspections, and investigations for 36176
the purpose of establishing such regulations, through such 36177
officers of the department of health or the boards of health, as 36178
~~he~~ the director delegates; 36179

(C) Designate officers and employees to enter at reasonable 36180
times any factory, warehouse, or establishment in which hazardous 36181
substances are held, or to enter any vehicle being used to 36182
transport or hold such hazardous substance: 36183

(1) For the purpose of determining the nature of such 36184
substances; 36185

(2) To inspect or copy all records showing the movement of 36186
any such hazardous substance, or the holding thereof during or 36187
after such movement, and the quantity, shipper, and consignee 36188
thereof; provided, evidence obtained under this subdivision shall 36189
not be used in a criminal prosecution of the person from whom 36190
obtained; 36191

(D) Inspect and sample, upon tender of reasonable price for 36192
such sample, at reasonable times and within reasonable limits and 36193
in a reasonable manner, finished hazardous substances in retail 36194
packages and labeling thereon in such factory, warehouse, 36195
establishment, or vehicle. 36196

Sec. 3717.01. As used in this chapter: 36197

(A) "Ohio uniform food safety code" means the food safety and 36198
related standards adopted under section 3717.05 of the Revised 36199
Code. 36200

(B) "Food" means any raw, cooked, or processed edible 36201
substance used or intended for use in whole or in part for human 36202
consumption. "Food" includes ice, water or any other beverage, 36203
food ingredients, and chewing gum. 36204

(C) "Retail food establishment" means a premises or part of a 36205
premises where food is stored, processed, prepared, manufactured, 36206
or otherwise held or handled for retail sale. Except when 36207
expressly provided otherwise, "retail food establishment" includes 36208
a mobile retail food establishment, seasonal retail food 36209

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| establishment, and temporary retail food establishment. | 36210 |
| As used in this division: | 36211 |
| (1) "Retail" means the sale of food to a person who is the ultimate consumer. | 36212 36213 |
| (2) "Prepared" means any action that affects a food, including receiving and maintaining it at the temperature at which it was received. | 36214 36215 36216 |
| (D) "Seasonal retail food establishment" means a retail food establishment, other than a mobile retail food establishment, that is operated for not more than six months in a licensing period. | 36217 36218 36219 |
| (E) "Temporary retail food establishment" means a retail food establishment that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.23 of the Revised Code. | 36220 36221 36222 36223 36224 |
| (F) "Food service operation" means a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this division, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received. | 36225 36226 36227 36228 36229 36230 36231 36232 36233 |
| 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. | 36234 36235 36236 36237 36238 |
| (G) "Catering food service operation" means a food service | 36239 |

operation where food is prepared for serving at a function or 36240
event held at an off-premises site, for a charge determined on a 36241
per-function or per-event basis. 36242

(H) "Food delivery sales operation" means a food service 36243
operation from which individual portions of food are ordered by a 36244
customer, prepared at another food service operation or a retail 36245
food establishment, and delivered to the customer by a person 36246
other than an employee of the food service operation or retail 36247
food establishment that prepared the food. 36248

(I) "Mobile food service operation" means a food service 36249
operation that is operated from a movable vehicle, portable 36250
structure, or watercraft and that routinely changes location, 36251
except that if the operation remains at any one location for more 36252
than forty consecutive days, the operation is no longer a mobile 36253
food service operation. "Mobile food service operation" includes a 36254
food service operation that does not remain at any one location 36255
for more than forty consecutive days and serves, in a manner 36256
consistent with division (F) of this section, only frozen 36257
desserts; beverages, nuts, popcorn, candy, or similar confections; 36258
bakery products identified in section 911.01 of the Revised Code; 36259
or any combination of those items. 36260

(J) "Seasonal food service operation" means a food service 36261
operation, other than a mobile food service operation, that is 36262
operated for not more than six months in a licensing period. 36263

(K) "Temporary food service operation" means a food service 36264
operation that is operated at an event for not more than five 36265
consecutive days, except when operated for more than five 36266
consecutive days pursuant to division (E)(2) of section 3717.43 of 36267
the Revised Code. 36268

(L) "Vending machine location" means an area or room where 36269
one or more vending machines are installed and operated, except 36270

that if the machines within an area are separated by more than one hundred fifty feet, each area separated by that distance constitutes a separate vending machine location. As used in this division, "vending machine" means a self-service device that automatically dispenses on the insertion of currency, tokens, or similar means a predetermined unit serving of food, either in bulk or in package, without having to be replenished after each use.

(M) "Board of health" means a 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.

(N) "Government entity" means this state, a political subdivision of this state, another state, or a political subdivision or other local government body of another state.

(O) "Licensor" means one of the following:

(1) A board of health approved under section 3717.11 of the Revised Code;

(2) The director of agriculture acting pursuant to section 3717.11 of the Revised Code with respect to the licensing of retail food establishments;

(3) The director of health acting pursuant to section 3717.11 of the Revised Code with respect to the licensing of food service operations.

(P) "Licensing period" means the first day of March to the last day of February of the next succeeding year.

(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 36301
vegetables, means that the fruits and vegetables are not processed 36302
beyond merely rough trimming and rinsing. 36303

(S) "Cottage food production operation" has the same meaning 36304
as in division (A)~~(20)~~(19) of section 3715.01 of the Revised Code. 36305

Sec. 3717.04. The director of agriculture,~~the public health~~ 36306
~~council~~, and the director of health have the exclusive power in 36307
this state to adopt rules regarding retail food establishments and 36308
food service operations. The rules adopted under this chapter 36309
shall be applied uniformly throughout this state. 36310

All rules adopted under this chapter shall be adopted in 36311
accordance with Chapter 119. of the Revised Code. Subject to the 36312
approval of the joint committee on agency rule review, portions of 36313
the rules may be adopted by referencing all or any part of any 36314
federal regulations pertaining to food safety. 36315

Sec. 3717.05. (A) The director of agriculture and the ~~public~~ 36316
director of health ~~council~~ shall adopt rules establishing 36317
standards for safe food handling and sanitation in retail food 36318
establishments and food service operations. The rules shall be 36319
compiled as the Ohio uniform food safety code, which shall be used 36320
by the licensors of retail food establishments and food service 36321
operations in ensuring the safe handling of food in this state. 36322
All scientific provisions of the Ohio uniform food safety code 36323
that are relevant to both retail food establishments and food 36324
service operations shall be adopted by the director of agriculture 36325
and the ~~public~~ director of health ~~council~~ with each other's 36326
concurrence. 36327

The Ohio uniform food safety code shall include the 36328
following: 36329

(1) Criteria for sanitation in retail food establishments and 36330

| | |
|--|---|
| food service operations; | 36331 |
| (2) Criteria for equipment in retail food establishments and food service operations; | 36332 36333 |
| (3) Criteria for reviewing the facility layout and equipment specifications of retail food establishments and food service operations; | 36334 36335 36336 |
| (4) A definition of "potentially hazardous" as it pertains to food in retail food establishments and to food in food service operations; | 36337 36338 36339 |
| (5) Criteria to be used in evaluating the primary business of a person or government entity for purposes of determining whether the person or entity should be licensed as a retail food establishment or food service operation. | 36340 36341 36342 36343 |
| (B)(1) Except as provided in division (B)(2) of this section, if a model food code is established by the United States food and drug administration, the Ohio uniform food safety code shall be based on the most current version of the food and drug administration's model food code. If the food and drug administration adopts, modifies, or rescinds a provision in the model food code, not later than twelve months after the administration's action, the director of agriculture and public <u>director of health council</u> shall adopt, amend, or rescind provisions in the Ohio uniform food safety code to ensure that it continues to conform with the model food code. | 36344 36345 36346 36347 36348 36349 36350 36351 36352 36353 36354 |
| (2) The Ohio uniform food safety code may contain or omit provisions that do not correspond to the food and drug administration's model food code if the director of agriculture or the public <u>director of health council</u> , with each other's concurrence, determines either of the following: | 36355 36356 36357 36358 36359 |
| (a) That rules can be adopted under this chapter that provide protection at least as effective as that which would be provided | 36360 36361 |

by basing the rules on the model food code; 36362

(b) That local conditions warrant the adoption of standards 36363
that are different from the model food code. 36364

Sec. 3717.07. (A) For purposes of establishing a licensing 36365
fee under sections 3717.25 and 3717.45 of the Revised Code, the 36366
director of agriculture and the ~~public~~ director of health council 36367
shall adopt rules establishing uniform methodologies for use in 36368
calculating the costs of licensing retail food establishments in 36369
the categories specified by the director of agriculture and the 36370
costs of licensing food service operations in the categories 36371
specified by the ~~council~~ director of health. In adopting the 36372
rules, the director of agriculture and the ~~public~~ director of 36373
health ~~council~~ shall consider any recommendations received from 36374
advisory boards or other entities representing the interests of 36375
retail food establishments and food service operations. 36376

(B) The rules shall include provisions that do all of the 36377
following: 36378

(1) Provide for calculations to be made according to fiscal 36379
years rather than licensing periods; 36380

(2) Limit the direct costs that may be attributed to the use 36381
of sanitarians by establishing appropriate statewide averages that 36382
may not be exceeded; 36383

(3) Limit the indirect costs that may be included in the 36384
calculation of fees to an amount that does not exceed thirty per 36385
cent of the cost of the licensing program; 36386

(4) Provide for a proportionate reduction in the fees to be 36387
charged if a licensor included anticipated costs in the 36388
immediately preceding calculation of licensing fees and the total 36389
amount of the anticipated costs was not incurred; 36390

(5) Provide for a proportionate reduction in the fees to be 36391

charged if it is discovered through an audit by the auditor of 36392
state or through any other means that the licensor has charged or 36393
is charging a licensing fee that exceeds the amount that should 36394
have been charged; 36395

(6) Provide for a twenty per cent reduction in the fees to be 36396
charged when the reduction is imposed as a penalty under division 36397
(C) of section 3717.071 of the Revised Code; 36398

(7) With regard to any fees charged for licensing vending 36399
machine locations, the rules shall prohibit a licensor from 36400
increasing fees by a percentage of increase over the previous 36401
year's fee that exceeds the percentage of increase in the consumer 36402
price index for all urban consumers (United States city average, 36403
all items), prepared by the United States department of labor, 36404
bureau of labor statistics, for the immediately preceding calendar 36405
year. 36406

Sec. 3717.45. (A) A licensor may charge fees for issuing and 36407
renewing food service operation licenses. Any licensing fee 36408
charged shall be used solely for the administration and 36409
enforcement of the provisions of this chapter and the rules 36410
adopted under it applicable to food service operations. 36411

Any licensing fee charged under this section shall be based 36412
on the licensor's costs of regulating food service operations, as 36413
determined according to the uniform methodologies established 36414
under section 3717.07 of the Revised Code. If the licensor is a 36415
board of health, a fee may be disapproved by the district advisory 36416
council in the case of a general health district or the 36417
legislative authority of the city in the case of a city health 36418
district. A disapproved fee shall not be charged by the board of 36419
health. 36420

Except when a licensing fee is established as an emergency 36421
measure, the licensor shall hold a public hearing regarding the 36422

proposed fee. At least twenty days prior to holding a public 36423
hearing, the licensor shall give written notice of the hearing to 36424
each person or government entity holding a food service operation 36425
license that may be affected by the proposed fee. The notice shall 36426
be mailed to the last known address of the licensee and shall 36427
specify the date, time, and place of the hearing and the amount of 36428
the proposed fee. On request, the licensor shall provide the 36429
completed uniform methodology used in the calculation of the 36430
licensor's costs and the proposed fee. 36431

(B) In addition to licensing fees, a licensor may charge fees 36432
for the following: 36433

(1) Review of facility layout and equipment specifications 36434
pertaining to food service operations, other than mobile and 36435
temporary food service operations, or similar reviews conducted 36436
for vending machine locations; 36437

(2) Any necessary collection and bacteriological examination 36438
of samples from food service operations, or similar services 36439
specified in rules adopted under this chapter by the ~~public~~ 36440
director of health council; 36441

(3) Attendance at a course of study offered by the licensor 36442
in food protection as it pertains to food service operations, if 36443
the course is approved under section 3717.09 of the Revised Code. 36444

(C)(1) The ~~public health council~~ director may determine by 36445
rule an amount to be collected from applicants for food service 36446
operation licenses for use ~~by the director of health~~ in 36447
administering and enforcing the provisions of this chapter and the 36448
rules adopted under it applicable to food service operations. 36449
Licensors shall collect the amount prior to issuing an applicant's 36450
new or renewed license. If a licensing fee is charged under this 36451
section, the licensor shall collect the amount at the same time 36452
the fee is collected. Licensors are not required to provide notice 36453

or hold public hearings regarding amounts to be collected. 36454

(2) A licensor shall certify the amount collected under 36455
division (C)(1) of this section and transmit the amount to the 36456
treasurer of state according to the following schedule: 36457

(a) For amounts received by the licensor on or after the 36458
first day of January but not later than the thirty-first day of 36459
March, transmit the amounts not later than the fifteenth day of 36460
May; 36461

(b) For amounts received by the licensor on or after the 36462
first day of April but not later than the thirtieth day of June, 36463
transmit the amounts not later than the fifteenth day of August; 36464

(c) For amounts received by the licensor on or after the 36465
first day of July but not later than the thirtieth day of 36466
September, transmit the amounts not later than the fifteenth day 36467
of November; 36468

(d) For amounts received by the licensor on or after the 36469
first day of October but not later than the thirty-first day of 36470
December, transmit the amounts not later than the fifteenth day of 36471
February of the following year. 36472

(3) All amounts received under division (C)(2) of this 36473
section shall be deposited into the general operations fund 36474
created in section 3701.83 of the Revised Code. The director shall 36475
use the amounts solely for the administration and enforcement of 36476
the provisions of this chapter and the rules adopted under it 36477
applicable to food service operations. 36478

~~(4) The director may submit recommendations to the public 36479
health council regarding the amounts collected under division 36480
(C)(1) of this section. When making recommendations, the director 36481
shall submit a report stating the current and projected expenses 36482
of administering and enforcing the provisions of this chapter and 36483
the rules adopted under it applicable to food service operations 36484~~

~~and the total of all amounts that have been deposited in the~~ 36485
~~general operations fund pursuant to division (C)(3) of this~~ 36486
~~section. The director may include in the report any~~ 36487
~~recommendations for modifying the department's administration and~~ 36488
~~enforcement of the provisions of this chapter and the rules~~ 36489
~~adopted under it applicable to food service operations.~~ 36490

Sec. 3717.51. Pursuant to section 3717.04 of the Revised 36492
Code, the ~~public~~ director of health council shall adopt rules 36493
regarding food service operations, as follows: 36494

(A) Licensing categories for food service operations and 36495
licensing requirements for each category; 36496

(B) Standards and procedures, including a schedule of 36497
frequency, for conducting inspections of food service operations; 36498

(C) Standards and procedures for conducting investigations of 36499
complaints pertaining to food service operations; 36500

(D) Procedures to be used by the director of health in 36501
approving courses of study for persons seeking certification in 36502
food protection, standards that must be met to receive and 36503
maintain the director's approval, and procedures for withdrawing 36504
the director's approval of a course if the standards for approval 36505
are no longer being met; 36506

(E) Standards for the provision of assistance to choking 36507
victims; 36508

(F) Any other matter the ~~council~~ director considers relevant 36509
to the administration and enforcement of the provisions of this 36510
chapter applicable to food service operations. 36511

Sec. 3718.02. (A) The ~~public~~ director of health council, in 36512
accordance with Chapter 119. of the Revised Code, shall adopt, and 36513
subsequently may amend and rescind, rules of general application 36514

throughout the state to administer this chapter. Rules adopted 36515
under division (A) of this section shall do at least all of the 36516
following: 36517

(1) Require that the appropriate board of health approve or 36518
disapprove the installation, operation, and alteration of a sewage 36519
treatment system if it is not connected to a sanitary sewerage 36520
system; 36521

(2) Require a board of health, or other person as established 36522
by rule, to conduct a site evaluation for any proposed 36523
installation of a sewage treatment system; 36524

(3) Prescribe standards for the siting, design, installation, 36525
operation, monitoring, maintenance, and abandonment of sewage 36526
treatment systems that may be used in this state and for the 36527
progressive or incremental alteration or repair of an existing 36528
sewage treatment system or the progressive or incremental 36529
installation of a new system to replace an existing sewage 36530
treatment system. The rules shall be adopted so as to establish a 36531
preference for the repair of an existing sewage treatment system, 36532
when technically and economically feasible, rather than its 36533
replacement with a new system. The standards shall include at a 36534
minimum all of the following: 36535

(a) Soil absorption specifications and vertical separation 36536
distances. 36537

(i) Soil absorption specifications established in rules shall 36538
include standards regarding the sizing of sewage treatment systems 36539
in use in the state. 36540

(ii) In establishing soil absorption specifications and 36541
vertical separation distances, the rules shall identify those soil 36542
conditions that present a low or moderate risk of inadequate 36543
treatment or dispersal of sewage from sewage treatment systems. 36544

For low and moderate risk conditions, the required vertical 36545
separation distance shall not exceed eighteen inches except as 36546
authorized pursuant to rules adopted under divisions 36547
(A)(3)(a)(iii) and (iv) of this section. 36548

In addition, the rules shall identify those soil conditions 36549
that present a high risk of inadequate treatment or dispersal of 36550
sewage. For such high risk conditions, the vertical separation 36551
distance shall be set at a depth from twenty-four to thirty-six 36552
inches and shall not be lowered unless a reduction of vertical 36553
separation is granted in accordance with rules adopted under 36554
division (A)(3)(a)(iii) of this section. 36555

(iii) The rules shall establish options to be utilized by a 36556
board of health when approving the reductions of or compliance 36557
with vertical separation distances that are established in rules 36558
adopted under division (A)(3)(a)(ii) of this section. The options 36559
for a board of health in providing such approval shall include, 36560
but not be limited to: the use where deemed appropriate for a 36561
particular site of subsurface interceptor drains, perimeter 36562
drains, or engineered drainage; pretreatment of sewage; or soil 36563
elevation. 36564

(iv) The rules shall provide that a board of health may 36565
petition the director to increase the vertical separation 36566
distances required for sewage treatment systems in the applicable 36567
health district or a portion of the district when conditions 36568
present a high risk of inadequate treatment or dispersal of 36569
sewage. The rules also shall provide that the director may approve 36570
such a request upon a demonstration by the board of health that 36571
unusual or unique local conditions relating to terrain, bedrock, 36572
water table, soil fragments, or soil textures require the 36573
establishment of greater vertical separation distances within the 36574
jurisdiction of the board of health or a portion thereof. If, 36575
under the rules, the director of health approves a greater 36576

vertical separation distance, a board of health still may approve 36577
a reduction of that vertical separation distance for an individual 36578
sewage treatment system pursuant to rules adopted under division 36579
(A)(3)(a)(iii) of this section. Further, if, under the rules, the 36580
director approves a greater vertical separation distance, a person 36581
who is denied permission by a board of health to install or 36582
replace a sewage treatment system as a result of the director's 36583
approval may request a hearing in accordance with section 3718.11 36584
of the Revised Code. 36585

(b) Specifications for the quality of treated sewage effluent 36586
from household sewage treatment systems that is applied to soil on 36587
the property where a household sewage treatment system is located. 36588
The specifications established in the rules for the quality of 36589
effluent from discharging systems shall comply with discharge 36590
requirements imposed by the national pollutant discharge 36591
elimination system permit program established under section 36592
6111.03 of the Revised Code and rules adopted under it. 36593

(c) Requirements for the reasonable maintenance of a system 36594
according to maintenance requirements approved by the director of 36595
health as recommended by the sewage treatment system technical 36596
advisory committee or according to accepted standards and 36597
practices established in rules, as applicable. The requirements 36598
may include standards for service contracts or other arrangements 36599
that assure regular maintenance and upkeep of the system. In 36600
determining the reasonableness of a maintenance requirement, the 36601
director shall consider a manufacturer's maintenance requirements 36602
as well as all other maintenance alternatives. 36603

(4) Prescribe procedures for notification to boards of health 36604
of the approval of a sewage treatment system or components of a 36605
system by the director of health under section 3718.04 of the 36606
Revised Code; 36607

(5) Prescribe criteria and procedures under which boards of 36608

health shall issue installation permits, operation permits, and 36609
alteration permits for sewage treatment systems. The rules shall 36610
require as a condition of an installation permit that the 36611
installer of a system must warrant that the system was installed 36612
in accordance with all applicable rules and design requirements. 36613
In addition, the rules shall require a board of health, not later 36614
than sixty days after the issuance of an installation, operation, 36615
or alteration permit, to notify the director that the permit was 36616
issued. The rules shall require the notification to be in a format 36617
prescribed by the director and to include information related to 36618
the issuance of the permit. With the assistance of the department 36619
of health, a board of health, to the extent practicable, shall 36620
computerize the process of the issuance of permits for sewage 36621
treatment systems. 36622

(6) Require a board of health to inspect a sewage treatment 36623
system not later than twelve months after its installation to 36624
ensure that the system is operating properly. The rules shall 36625
require a board of health, not later than sixty days after the 36626
inspection, to certify to the director on a form provided by the 36627
director that the inspection was performed. 36628

(7) Require each board of health to develop a program for the 36629
administration of maintenance requirements established in rules 36630
adopted under division (A)(3)(c) of this section. The rules shall 36631
include requirements and procedures under which a person may 36632
demonstrate the required maintenance of a system in lieu of having 36633
an inspection conducted when an inspection otherwise is required. 36634
The rules shall require a board of health to provide written 36635
notice to a person that is demonstrating maintenance of a system 36636
in lieu of an inspection that if proof of the required maintenance 36637
of the system is not provided as required by rules, the system is 36638
subject to inspection by the board and the reasonable cost of the 36639
inspection must be paid by the person. The rules shall authorize a 36640

board of health to inspect any sewage treatment system if there is 36641
a good-faith complaint regarding the system, there is probable 36642
cause for the inspection, or proof of the required maintenance of 36643
the system has not been provided as required by rules. In 36644
addition, the rules shall authorize a board of health to inspect a 36645
sewage treatment system without prior notice in any instance in 36646
which the board has probable cause to believe that the system is 36647
endangering or threatening to endanger public health. The rules 36648
shall require that the reasonable costs for sewage effluent 36649
testing or evaluation be paid by the owner of a sewage treatment 36650
system that is being investigated. Further, the rules shall 36651
establish a methodology for determining the reasonable costs of an 36652
inspection in accordance with section 3709.09 of the Revised Code. 36653
The rules shall allow, but shall not require, a board of health to 36654
continue an inspection program that was established by the board 36655
prior to the effective date of the rules, provided that the 36656
program authorizes a person to demonstrate the required 36657
maintenance of a system in lieu of an inspection. 36658

(8) Require a board of health to register installers, service 36659
providers, and septage haulers that perform work within the health 36660
district; prescribe criteria and procedures for the registration; 36661
and prescribe criteria for a demonstration of competency as a part 36662
of the registration. The rules shall establish uniform statewide 36663
bonding requirements or other financial security requirements for 36664
installers, service providers, and septage haulers as a condition 36665
of registration within any health district. The rules shall 36666
establish a methodology by which the required amount of a bond or 36667
other security may be calculated for each installer, service 36668
provider, and septage hauler. The methodology, at a minimum, shall 36669
consider the number of systems installed or serviced and the type 36670
of system installed or serviced by an installer, service provider, 36671
or septage hauler on an annual basis. The rules shall provide that 36672
no board of health shall require an additional or different bond 36673

or security requirement as a condition of registration beyond the 36674
bonding and security requirements established in the rules adopted 36675
under division (A)(8) of this section. 36676

The rules shall establish a cost methodology for determining 36677
the fee for the registration of an installer, service provider, or 36678
septage hauler in any health district. 36679

(9) Prescribe requirements for the collection, 36680
transportation, disposal, and land application of domestic septage 36681
in this state from a sewage treatment system; 36682

(10) Require boards of health to maintain records that are 36683
determined necessary to ascertain compliance with this chapter and 36684
the rules adopted under it; 36685

(11) Require the manufacturer of a sewage treatment system 36686
that is authorized for use in this state in rules adopted under 36687
this section or that is approved for use in this state under 36688
section 3718.04 of the Revised Code to provide instructions for 36689
the operation and maintenance of the system. The rules shall 36690
provide that a board of health may require a copy of a 36691
manufacturer's instructions for the operation and maintenance of a 36692
system to be filed with the board prior to the installation and 36693
use of the system in the health district in which the board has 36694
jurisdiction. In addition, the rules shall require a board of 36695
health and a manufacturer to provide a copy of the operation and 36696
maintenance instructions, if available, when a board of health or 36697
a manufacturer receives a written request for instructions. 36698

(12) Prescribe criteria for the provision of written evidence 36699
of compliance with rules pertaining to sewage treatment for 36700
purposes of sections 711.05 and 711.10 of the Revised Code; 36701

(13) Pursuant to divisions (A)(1) and (3) of this section, 36702
prescribe standards for the siting, design, installation, 36703
operation, monitoring, maintenance, and abandonment of small flow 36704

on-site sewage treatment systems that may be used in this state; 36705

(14) Prescribe minimum criteria and procedures under which 36706
boards of health may establish household sewage treatment district 36707
management programs for the purpose of providing a responsive 36708
approach toward preventing or solving sewage treatment problems 36709
resulting from household sewage treatment systems within the 36710
districts established under the program. For purposes of division 36711
(A)(14) of this section, a board of health may enter into a 36712
contract with any entity to administer a household sewage 36713
treatment district management program. 36714

(15) Prescribe standards for the use of subsurface 36715
interceptor drains, perimeter drains, and engineered drainage to 36716
remove or divert any subsurface water from an area to be used for 36717
soil absorption of sewage in the soil of a sewage treatment 36718
system; 36719

(16) Prescribe standards for the inspection of septage 36720
hauling truck tanks by boards of health, including, but not 36721
limited to, tank seal safety specifications; 36722

(17) Establish standards and testing methods to ensure that 36723
all septic tanks, other disposal component tanks, dosing tanks, 36724
pump vaults, household sewage treatment disposal system holding 36725
tanks and privy vaults, or other applicable sewage disposal system 36726
components manufactured after ~~the effective date of this section~~ 36727
September 17, 2010, and used in this state are watertight and 36728
structurally sound; 36729

(18) Require a board of health to give notice and an 36730
opportunity for a hearing, pursuant to section 3718.11 of the 36731
Revised Code, to an affected property owner regarding any of the 36732
following: 36733

(a) The denial of an installation, operation, or alteration 36734
permit for a sewage treatment system; 36735

(b) The imposition of a condition on the installation of a sewage treatment system; 36736
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(c) The required replacement of a sewage treatment system; 36738

(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. 36739
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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. 36742
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(19) Prescribe standards for the regulation of gray water recycling systems; 36745
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(20) Prohibit a sewage treatment system from causing a public health nuisance; 36747
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(21) Define economic impact for purposes of division (B) of this section and section 3718.022 of the Revised Code. 36749
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The ~~council~~ director may adopt other rules under division (A) of this section that ~~it~~ the director determines are necessary to implement this chapter and to protect the public health and welfare. 36751
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At least sixty days prior to adopting a rule under division (A) of this section, the ~~council~~ director shall provide boards of health and any other interested parties an opportunity to comment on the rule. 36755
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(B)(1) In accordance with section 3709.20 or 3709.21 of the Revised Code, as applicable, and subject to review by and approval of the director under division (C) of section 3718.05 of the Revised Code, a board of health may adopt rules necessary for the public health providing for more stringent standards than those established in rules ~~of the public health council~~ adopted by the director under division (A) of this section. In proposing or 36759
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adopting the rules, a board of health shall consider and document 36766
the economic impact of the rules on property owners within the 36767
applicable health district. 36768

(2) A board that intends to adopt rules shall notify the 36769
department of health of the proposed rules and submit a copy of 36770
the proposed rules and the documentation of the economic impact of 36771
the rules at least ninety days prior to the proposed date of 36772
adoption. The director shall approve or disapprove any such 36773
proposed rule within ninety days after receiving a copy of the 36774
proposed rule from the board of health. 36775

(3) In reviewing a proposed rule, the director shall approve 36776
the rule if all of the following apply: 36777

(a) The proposed rule is not in conflict with this chapter or 36778
rules adopted under it. 36779

(b) The proposed rule is authorized by division (B) of this 36780
section. 36781

(c) The proposed rule is no less stringent than rules adopted 36782
by the ~~public health council~~ director. 36783

(d) Unless otherwise authorized by this chapter or rules 36784
adopted under it, the proposed rule does not require design 36785
changes to a sewage treatment system, or component thereof, that 36786
differ from a design authorized in rules adopted under division 36787
(A) of this section, including rules adopted under division (A)(1) 36788
or (A)(3)(a)(iii) or (iv) of this section, or approved by the 36789
director under section 3718.04 of the Revised Code. 36790

(e) The proposed rule does not require operation or 36791
maintenance procedures for a sewage treatment system that conflict 36792
with operation or maintenance procedures authorized in rules 36793
adopted under division (A) of this section, including rules 36794
adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this 36795
section, or approved by the director under section 3718.04 of the 36796

Revised Code. 36797

(4) If a board of health fails to submit a proposed rule to 36798
the director or fails to demonstrate that the board has considered 36799
the economic impact of the proposed rule, the rule shall have no 36800
force or effect and is not enforceable. 36801

Sec. 3718.021. (A) A board of health may regulate the siting, 36802
design, installation, operation, monitoring, maintenance, and 36803
abandonment of small flow on-site sewage treatment systems in 36804
accordance with rules adopted by the ~~public~~ director of health 36805
~~council~~ under division (A)(13) of section 3718.02 of the Revised 36806
Code. If a board of health chooses to regulate small flow on-site 36807
sewage treatment systems, the board first shall send written 36808
notification to the director of health and the director of 36809
environmental protection. 36810

(B) If a board of health chooses to regulate small flow 36811
on-site sewage treatment systems under division (A) of this 36812
section and later determines that it no longer wants to regulate 36813
those systems, the board shall notify the director of health and 36814
the director of environmental protection. Upon the receipt of the 36815
notification by the director of environmental protection, the 36816
board of health shall cease regulating small flow on-site sewage 36817
treatment systems, and the environmental protection agency shall 36818
regulate those systems. 36819

(C) If after a survey conducted under section 3718.07 of the 36820
Revised Code the director of health finds that a board of health 36821
that has chosen to regulate small flow on-site sewage treatment 36822
systems is not complying with the rules adopted under division 36823
(A)(13) of section 3718.02 of the Revised Code, the director shall 36824
notify the director of environmental protection and the board of 36825
health. Upon receipt of the notification, the board shall cease 36826
regulating small flow on-site sewage treatment systems, and the 36827

environmental protection agency shall regulate those systems. 36828

Sec. 3718.022. Notwithstanding any provision in this chapter 36829
to the contrary, in adopting rules under division (A) of section 36830
3718.02 of the Revised Code, the ~~public~~ director of health council 36831
shall consider the economic impact of the rules on property 36832
owners, the state of available technology, and the nature and 36833
economics of the available ~~alternatives~~ alternatives. 36834

Sec. 3718.05. The director of health shall do all of the 36835
following: 36836

(A) Administer and enforce this chapter and the rules ~~of the~~ 36837
~~public health council~~ adopted under it; 36838

(B) Examine records of boards of health, in accordance with 36839
rules adopted by the ~~council~~ director, that are determined 36840
necessary to ascertain compliance with this chapter and rules 36841
adopted under it; 36842

(C) Review and approve or disapprove rules proposed by boards 36843
of health under division (B) of section 3718.02 of the Revised 36844
Code. The director shall not disapprove a proposed rule unless the 36845
director determines that the proposed rule conflicts with this 36846
chapter or rules adopted under division (A) of section 3718.02 of 36847
the Revised Code ~~by the public health council~~ or fails to promote 36848
public health or environmental protection. If the director 36849
disapproves a proposed rule, the director shall provide a written 36850
explanation of the director's disapproval to the board of health 36851
that proposed the rule. 36852

(D) Survey boards of health as required by section 3718.07 of 36853
the Revised Code; 36854

(E) Develop with the sewage treatment system technical 36855
advisory committee standards, guidelines, and protocols for use by 36856
the director in approving or disapproving a sewage treatment 36857

system under section 3718.04 of the Revised Code and an 36858
application form for use by applicants for that approval, 36859
including identification of the information that must be included 36860
with the form; 36861

(F) Provide instructions on the operation and maintenance of 36862
a sewage treatment system. The director shall provide the 36863
operation and maintenance instructions on the department of 36864
health's web site. In addition, the director shall provide a copy 36865
of the operation and maintenance instructions when the director 36866
receives a written request for the instructions. 36867

(G) Develop educational programs, in conjunction with boards 36868
of health, to educate owners of sewage treatment systems regarding 36869
the proper operation and maintenance of those systems. 36870

Sec. 3718.06. (A)~~(1)~~ A board of health shall establish fees 36871
in accordance with section 3709.09 of the Revised Code for the 36872
purpose of carrying out its duties under this chapter and rules 36873
adopted under it, including fees for installation permits, 36874
operation permits, and alteration permits issued by the board. All 36875
fees so established and collected by the board shall be deposited 36876
in a special fund of the district to be used exclusively by the 36877
board in carrying out those duties. 36878

~~(2)~~(B) In accordance with Chapter 119. of the Revised Code, 36879
the ~~public director of health council~~ may establish by rule a fee 36880
to be collected from applicants for installation permits and 36881
alteration permits issued under rules adopted under this chapter. 36882
The director of health shall use not more than seventy-five per 36883
cent of the proceeds from that fee for administering and enforcing 36884
this chapter and the rules adopted under it by the ~~council~~ 36885
director. The director shall use not less than twenty-five per 36886
cent of the proceeds from that fee to establish a program in 36887
cooperation with boards of health to fund installation and 36888

evaluation of sewage treatment system new technology pilot 36889
projects through grants or other agreements. In the selection of 36890
pilot projects, the director shall consult with the sewage 36891
treatment system technical advisory committee. A board of health 36892
shall collect and transmit the fee to the director pursuant to 36893
section 3709.092 of the Revised Code. 36894

~~(B) The director may submit recommendations to the public 36895
health council regarding the amount of the fee collected under 36896
division (A)(2) of this section for installation and alteration 36897
permits. When making the recommendations, the director shall 36898
submit a report stating the current and projected expenses of 36899
administering and enforcing this chapter and the rules adopted 36900
under it and of the sewage treatment system new technology pilot 36901
projects program established under this section and the total of 36902
all money that has been deposited to the credit of the general 36903
operations fund under division (A)(2) of this section. The 36904
director may include in the report any recommendations for 36905
modifying the requirements established under this chapter and the 36906
rules adopted under it by the council. 36907~~

Sec. 3718.07. The director of health shall survey each city 36909
and general health district at least once every three years to 36910
determine whether there is substantial compliance with the 36911
requirements of this chapter pertaining to health districts and 36912
the applicable rules adopted by the ~~public health council~~ director 36913
under this chapter. Upon determining that there is substantial 36914
compliance, the director shall place the district on an approved 36915
list. The director may resurvey an approved district if it is 36916
determined by the director to be necessary and may remove from the 36917
list a district that is found not to be substantially complying 36918
with the requirements of this chapter pertaining to health 36919
districts and the applicable rules. 36920

If the director determines that a district is not eligible to be placed on the approved list or to continue on the list after a resurvey, the director shall certify that determination to the board of health, and the director shall carry out the duties of the unapproved health district under this chapter and the applicable rules adopted under it within the district or shall contract with an approved health district to conduct those duties until the unapproved district is placed on or returned to the approved list. The director or the contracting district shall have within the unapproved district the authority to exercise powers and perform duties granted to or imposed on the board under this chapter and the applicable rules adopted under it.

Until the unapproved district is placed on or returned to the approved list, the director or the contracting district shall collect all fees payable to the board of health under this chapter and all such fees previously paid to the unapproved district that have not been expended or encumbered. The director shall deposit those fees in the state treasury to the credit of a special fund, which is hereby created, to be used by the director for the purpose of carrying out the duties of the unapproved health district under this chapter and the applicable rules adopted under it. A contracting district shall deposit those fees to the credit of its fund created under section 3718.06 of the Revised Code to be used by the district for the purpose of carrying out the duties of the unapproved district under this chapter and the applicable rules adopted under it. The director or contracting district shall repay to the unapproved district any balance remaining in the applicable fund from all sources when the unapproved district is placed on or returned to the approved list by the director.

If a health district is removed from the approved list under this section and the board of health of the district is regulating small flow on-site sewage treatment systems in the district under

section 3718.021 of the Revised Code, the director of 36953
environmental protection shall regulate those systems in that 36954
district in accordance with division (C) of that section. 36955

Sec. 3718.09. (A) A board of health may issue, modify, 36956
suspend, or revoke enforcement orders to a registration or permit 36957
holder or other person directing the holder or person to abate a 36958
violation of this chapter, any rule adopted or order issued under 36959
it, or a condition of a registration or permit issued under it 36960
within a specified, reasonable time. If an order issued under this 36961
division is neglected or disregarded, the applicable board of 36962
health may proceed in accordance with section 3707.02 of the 36963
Revised Code. 36964

(B) The health commissioner or the commissioner's designated 36965
representative, without prior notice or hearing and in accordance 36966
with ~~the rules of~~ adopted by the public director of health 36967
~~council~~, may issue an emergency order requiring any action 36968
necessary to meet a public health emergency or to prevent or abate 36969
an imminent and substantial threat to surface water or ground 36970
water regarding domestic septage management or regarding a sewage 36971
treatment system that is being operated in a manner that does not 36972
comply with this chapter or rules adopted under it. A person to 36973
whom such an emergency order is issued immediately shall comply 36974
with the order. A person so ordered may apply to the issuer of the 36975
order for a hearing, which shall be held as soon as possible, but 36976
not later than twenty days after the issuer's receipt of the 36977
application for a hearing. 36978

Sec. 3719.06. (A)(1) A licensed health professional 36979
authorized to prescribe drugs, if acting in the course of 36980
professional practice, in accordance with the laws regulating the 36981
professional's practice, and in accordance with rules adopted by 36982
the state board of pharmacy, may, except as provided in division 36983

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| (A)(2) or (3) of this section, do the following: | 36984 |
| (a) Prescribe schedule II, III, IV, and V controlled substances; | 36985 36986 |
| (b) Administer or personally furnish to patients schedule II, III, IV, and V controlled substances; | 36987 36988 |
| (c) Cause schedule II, III, IV, and V controlled substances to be administered under the prescriber's direction and supervision. | 36989 36990 36991 |
| (2) A licensed health professional authorized to prescribe drugs who is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is subject to both of the following: | 36992 36993 36994 36995 |
| (a) A schedule II controlled substance may be prescribed only in accordance with division (C) of section 4723.481 of the Revised Code. | 36996 36997 36998 |
| (b) No schedule II controlled substance shall be personally furnished to any patient. | 36999 37000 |
| (3) A licensed health professional authorized to prescribe drugs who is a physician assistant shall not prescribe or personally furnish to patients any <u>is subject to all of the following:</u> | 37001 37002 37003 37004 |
| <u>(a) A controlled substance that is not may be prescribed or personally furnished only if it is included in the physician-delegated prescriptive authority granted to the physician assistant in accordance with Chapter 4730. of the Revised Code.</u> | 37005 37006 37007 37008 37009 |
| <u>(b) A schedule II controlled substance may be prescribed only in accordance with division (B)(4) of section 4730.41 and section 4730.411 of the Revised Code.</u> | 37010 37011 37012 |
| <u>(c) No schedule II controlled substance shall be personally</u> | 37013 |

furnished to any patient. 37014

(B) No licensed health professional authorized to prescribe 37015
drugs shall prescribe, administer, or personally furnish a 37016
schedule III anabolic steroid for the purpose of human muscle 37017
building or enhancing human athletic performance and no pharmacist 37018
shall dispense a schedule III anabolic steroid for either purpose, 37019
unless it has been approved for that purpose under the "Federal 37020
Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 37021
301, as amended. 37022

(C) Each written prescription shall be properly executed, 37023
dated, and signed by the prescriber on the day when issued and 37024
shall bear the full name and address of the person for whom, or 37025
the owner of the animal for which, the controlled substance is 37026
prescribed and the full name, address, and registry number under 37027
the federal drug abuse control laws of the prescriber. If the 37028
prescription is for an animal, it shall state the species of the 37029
animal for which the controlled substance is prescribed. 37030

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 37031
3721.99 of the Revised Code: 37032

(1)(a) "Home" means an institution, residence, or facility 37033
that provides, for a period of more than twenty-four hours, 37034
whether for a consideration or not, accommodations to three or 37035
more unrelated individuals who are dependent upon the services of 37036
others, including a nursing home, residential care facility, home 37037
for the aging, and a veterans' home operated under Chapter 5907. 37038
of the Revised Code. 37039

(b) "Home" also means both of the following: 37040

(i) Any facility that a person, as defined in section 3702.51 37041
of the Revised Code, proposes for certification as a skilled 37042
nursing facility or nursing facility under Title XVIII or XIX of 37043

the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 37044
as amended, and for which a certificate of need, other than a 37045
certificate to recategorize hospital beds as described in section 37046
~~3702.522~~ 3702.521 of the Revised Code or division (R)(7)(d) of the 37047
version of section 3702.51 of the Revised Code in effect 37048
immediately prior to April 20, 1995, has been granted to the 37049
person under sections 3702.51 to 3702.62 of the Revised Code after 37050
August 5, 1989; 37051

(ii) A county home or district home that is or has been 37052
licensed as a residential care facility. 37053

(c) "Home" does not mean any of the following: 37054

(i) Except as provided in division (A)(1)(b) of this section, 37055
a public hospital or hospital as defined in section 3701.01 or 37056
5122.01 of the Revised Code; 37057

(ii) A residential facility ~~for mentally ill persons~~ as 37058
defined ~~under~~ in section 5119.22 of the Revised Code; 37059

(iii) A residential facility as defined in section 5123.19 of 37060
the Revised Code; 37061

(iv) ~~An adult care facility as defined in section 5119.70 of~~ 37062
~~the Revised Code;~~ 37063

~~(v)~~ An alcohol or drug addiction program as defined in 37064
section 3793.01 of the Revised Code; 37065

~~(vi)~~ (v) A facility licensed to provide methadone treatment 37066
under section 3793.11 of the Revised Code; 37067

~~(vii)~~ (vi) A facility providing services under contract with 37068
the department of developmental disabilities under section 5123.18 37069
of the Revised Code ~~unless section 5123.192 of the Revised Code~~ 37070
~~makes the facility subject to the requirements of this chapter;~~ 37071

~~(viii)~~ (vii) A facility operated by a hospice care program 37072
licensed under section 3712.04 of the Revised Code that is used 37073

exclusively for care of hospice patients; 37074

~~(ix)~~(viii) A facility, infirmary, or other entity that is 37075
operated by a religious order, provides care exclusively to 37076
members of religious orders who take vows of celibacy and live by 37077
virtue of their vows within the orders as if related, and does not 37078
participate in the medicare program established under Title XVIII 37079
of the "Social Security Act" or the medical assistance program 37080
established under Chapter 5111. of the Revised Code and Title XIX 37081
of the "Social Security Act," if on January 1, 1994, the facility, 37082
infirmary, or entity was providing care exclusively to members of 37083
the religious order; 37084

~~(x)~~(ix) A county home or district home that has never been 37085
licensed as a residential care facility. 37086

(2) "Unrelated individual" means one who is not related to 37087
the owner or operator of a home or to the spouse of the owner or 37088
operator as a parent, grandparent, child, grandchild, brother, 37089
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 37090
uncle. 37091

(3) "Mental impairment" does not mean mental illness as 37092
defined in section 5122.01 of the Revised Code or mental 37093
retardation as defined in section 5123.01 of the Revised Code. 37094

(4) "Skilled nursing care" means procedures that require 37095
technical skills and knowledge beyond those the untrained person 37096
possesses and that are commonly employed in providing for the 37097
physical, mental, and emotional needs of the ill or otherwise 37098
incapacitated. "Skilled nursing care" includes, but is not limited 37099
to, the following: 37100

(a) Irrigations, catheterizations, application of dressings, 37101
and supervision of special diets; 37102

(b) Objective observation of changes in the patient's 37103
condition as a means of analyzing and determining the nursing care 37104

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| required and the need for further medical diagnosis and treatment; | 37105 |
| (c) Special procedures contributing to rehabilitation; | 37106 |
| (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; | 37107 37108 37109 |
| (e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration. | 37110 37111 37112 |
| (5)(a) "Personal care services" means services including, but not limited to, the following: | 37113 37114 |
| (i) Assisting residents with activities of daily living; | 37115 |
| (ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code; | 37116 37117 37118 |
| (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. | 37119 37120 37121 37122 |
| (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. | 37123 37124 37125 37126 37127 |
| (6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care. | 37128 37129 37130 37131 37132 37133 |
| (7) "Residential care facility" means a home that provides | 37134 |

either of the following: 37135

(a) Accommodations for seventeen or more unrelated 37136
individuals and supervision and personal care services for three 37137
or more of those individuals who are dependent on the services of 37138
others by reason of age or physical or mental impairment; 37139

(b) Accommodations for three or more unrelated individuals, 37140
supervision and personal care services for at least three of those 37141
individuals who are dependent on the services of others by reason 37142
of age or physical or mental impairment, and, to at least one of 37143
those individuals, any of the skilled nursing care authorized by 37144
section 3721.011 of the Revised Code. 37145

(8) "Home for the aging" means a home that provides services 37146
as a residential care facility and a nursing home, except that the 37147
home provides its services only to individuals who are dependent 37148
on the services of others by reason of both age and physical or 37149
mental impairment. 37150

The part or unit of a home for the aging that provides 37151
services only as a residential care facility is licensed as a 37152
residential care facility. The part or unit that may provide 37153
skilled nursing care beyond the extent authorized by section 37154
3721.011 of the Revised Code is licensed as a nursing home. 37155

(9) "County home" and "district home" mean a county home or 37156
district home operated under Chapter 5155. of the Revised Code. 37157

(B) The ~~public~~ director of health council may further 37158
classify homes. For the purposes of this chapter, any residence, 37159
institution, hotel, congregate housing project, or similar 37160
facility that meets the definition of a home under this section is 37161
such a home regardless of how the facility holds itself out to the 37162
public. 37163

(C) For purposes of this chapter, personal care services or 37164
skilled nursing care shall be considered to be provided by a 37165

facility if they are provided by a person employed by or 37166
associated with the facility or by another person pursuant to an 37167
agreement to which neither the resident who receives the services 37168
nor the resident's sponsor is a party. 37169

(D) Nothing in division (A)(4) of this section shall be 37170
construed to permit skilled nursing care to be imposed on an 37171
individual who does not require skilled nursing care. 37172

Nothing in division (A)(5) of this section shall be construed 37173
to permit personal care services to be imposed on an individual 37174
who is capable of performing the activity in question without 37175
assistance. 37176

(E) Division (A)(1)(c)~~(ix)~~(viii) of this section does not 37177
prohibit a facility, infirmary, or other entity described in that 37178
division from seeking licensure under sections 3721.01 to 3721.09 37179
of the Revised Code or certification under Title XVIII or XIX of 37180
the "Social Security Act." However, such a facility, infirmary, or 37181
entity that applies for licensure or certification must meet the 37182
requirements of those sections or titles and the rules adopted 37183
under them and obtain a certificate of need from the director of 37184
health under section 3702.52 of the Revised Code. 37185

(F) Nothing in this chapter, or rules adopted pursuant to it, 37186
shall be construed as authorizing the supervision, regulation, or 37187
control of the spiritual care or treatment of residents or 37188
patients in any home who rely upon treatment by prayer or 37189
spiritual means in accordance with the creed or tenets of any 37190
recognized church or religious denomination. 37191

Sec. 3721.011. (A) In addition to providing accommodations, 37192
supervision, and personal care services to its residents, a 37193
residential care facility may do the following: 37194

(1) Provide the following skilled nursing care to its 37195

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| residents: | 37196 |
| (a) Supervision of special diets; | 37197 |
| (b) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code; | 37198 37199 |
| (c) Subject to division (B)(1) of this section, administration of medication. | 37200 37201 |
| (2) Subject to division (C) of this section, provide other skilled nursing care on a part-time, intermittent basis for not more than a total of one hundred twenty days in a twelve-month period; | 37202 37203 37204 37205 |
| (3) Provide skilled nursing care for more than one hundred twenty days in a twelve-month period to a resident when the requirements of division (D) of this section are met. | 37206 37207 37208 |
| A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section. | 37209 37210 37211 37212 37213 |
| (B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C. 1395, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons authorized by law to administer medication: | 37214 37215 37216 37217 37218 37219 37220 37221 37222 37223 37224 37225 37226 |

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| (a) A registered nurse licensed under Chapter 4723. of the Revised Code; | 37227 37228 |
| (b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; | 37229 37230 37231 37232 37233 37234 37235 |
| (c) A medication aide certified under Chapter 4723. of the Revised Code; | 37236 37237 |
| (d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. | 37238 37239 37240 |
| (2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following: | 37241 37242 37243 |
| (a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container; | 37244 37245 |
| (b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident. | 37246 37247 37248 37249 37250 |
| (c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and | 37251 37252 37253 37254 37255 37256 37257 |

place the container to the mouth of the resident. 37258

(C) Except as provided in division (D) of this section, a 37259
residential care facility may admit or retain individuals who 37260
require skilled nursing care beyond the supervision of special 37261
diets, application of dressings, or administration of medication, 37262
only if the care will be provided on a part-time, intermittent 37263
basis for not more than a total of one hundred twenty days in any 37264
twelve-month period. In accordance with Chapter 119. of the 37265
Revised Code, the ~~public~~ director of health council shall adopt 37266
rules specifying what constitutes the need for skilled nursing 37267
care on a part-time, intermittent basis. The ~~council~~ director 37268
shall adopt rules that are consistent with rules pertaining to 37269
home health care adopted by the director of job and family 37270
services for the medicaid program established under Chapter 5111. 37271
of the Revised Code. Skilled nursing care provided pursuant to 37272
this division may be provided by a home health agency certified 37273
under Title XVIII of the "Social Security Act," a hospice care 37274
program licensed under Chapter 3712. of the Revised Code, or a 37275
member of the staff of a residential care facility who is 37276
qualified to perform skilled nursing care. 37277

A residential care facility that provides skilled nursing 37278
care pursuant to this division shall do both of the following: 37279

(1) Evaluate each resident receiving the skilled nursing care 37280
at least once every seven days to determine whether the resident 37281
should be transferred to a nursing home; 37282

(2) Meet the skilled nursing care needs of each resident 37283
receiving the care. 37284

(D)(1) A residential care facility may admit or retain an 37285
individual who requires skilled nursing care for more than one 37286
hundred twenty days in any twelve-month period only if the 37287
facility has entered into a written agreement with each of the 37288

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| following: | 37289 |
| (a) The individual or individual's sponsor; | 37290 |
| (b) The individual's personal physician; | 37291 |
| (c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care; | 37292 37293 |
| (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. | 37294 37295 37296 |
| (2) The agreement required by division (D)(1) of this section shall include all of the following provisions: | 37297 37298 |
| (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; | 37299 37300 37301 |
| (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; | 37302 37303 37304 |
| (c) That the redeterminations will be made according to a schedule specified in the agreement; | 37305 37306 |
| (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; | 37307 37308 37309 |
| (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. | 37310 37311 37312 |
| (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. | 37313 37314 37315 |
| Sec. 3721.02. (A) <u>As used in this section, "residential facility" means a residential facility licensed under section</u> | 37316 37317 |

5119.22 of the Revised Code that provides accommodations, 37318
supervision, and personal care services for three to sixteen 37319
unrelated adults. 37320

(B) The director of health shall license homes and establish 37321
procedures to be followed in inspecting and licensing homes. The 37322
director may inspect a home at any time. Each home shall be 37323
inspected by the director at least once prior to the issuance of a 37324
license and at least once every fifteen months thereafter. The 37325
state fire marshal or a township, municipal, or other legally 37326
constituted fire department approved by the marshal shall also 37327
inspect a home prior to issuance of a license, at least once every 37328
fifteen months thereafter, and at any other time requested by the 37329
director. A home does not have to be inspected prior to issuance 37330
of a license by the director, state fire marshal, or a fire 37331
department if ownership of the home is assigned or transferred to 37332
a different person and the home was licensed under this chapter 37333
immediately prior to the assignment or transfer. The director may 37334
enter at any time, for the purposes of investigation, any 37335
institution, residence, facility, or other structure that has been 37336
reported to the director or that the director has reasonable cause 37337
to believe is operating as a nursing home, residential care 37338
facility, or home for the aging without a valid license required 37339
by section 3721.05 of the Revised Code or, in the case of a county 37340
home or district home, is operating despite the revocation of its 37341
residential care facility license. The director may delegate the 37342
director's authority and duties under this chapter to any 37343
division, bureau, agency, or official of the department of health. 37344

~~(B)~~(C) A single facility may be licensed both as a nursing 37345
home pursuant to this chapter and as ~~an adult care~~ a residential 37346
facility pursuant to ~~Chapter 5119.~~ section 5119.22 of the Revised 37347
Code if the director determines that the part or unit to be 37348
licensed as a nursing home can be maintained separate and discrete 37349

from the part or unit to be licensed as ~~an adult care a~~ 37350
residential facility. 37351

~~(C)~~(D) In determining the number of residents in a home for 37352
the purpose of licensing, the director shall consider all the 37353
individuals for whom the home provides accommodations as one group 37354
unless one of the following is the case: 37355

(1) The home is a home for the aging, in which case all the 37356
individuals in the part or unit licensed as a nursing home shall 37357
be considered as one group, and all the individuals in the part or 37358
unit licensed as a rest home shall be considered as another group. 37359

(2) The home is both a nursing home and ~~an adult care a~~ 37360
residential facility. In that case, all the individuals in the 37361
part or unit licensed as a nursing home shall be considered as one 37362
group, and all the individuals in the part or unit licensed as an 37363
adult care facility shall be considered as another group. 37364

(3) The home maintains, in addition to a nursing home or 37365
residential care facility, a separate and discrete part or unit 37366
that provides accommodations to individuals who do not require or 37367
receive skilled nursing care and do not receive personal care 37368
services from the home, in which case the individuals in the 37369
separate and discrete part or unit shall not be considered in 37370
determining the number of residents in the home if the separate 37371
and discrete part or unit is in compliance with the Ohio basic 37372
building code established by the board of building standards under 37373
Chapters 3781. and 3791. of the Revised Code and the home permits 37374
the director, on request, to inspect the separate and discrete 37375
part or unit and speak with the individuals residing there, if 37376
they consent, to determine whether the separate and discrete part 37377
or unit meets the requirements of this division. 37378

~~(D)~~(E)(1) The director of health shall charge the following 37379
application fee and annual renewal licensing and inspection fee 37380

for each fifty persons or part thereof of a home's licensed 37381
capacity: 37382

(a) For state fiscal year 2010, two hundred twenty dollars; 37383

(b) For state fiscal year 2011, two hundred seventy dollars; 37384

(c) For each state fiscal year thereafter, three hundred 37385
twenty dollars. 37386

(2) All fees collected by the director for the issuance or 37387
renewal of licenses shall be deposited into the state treasury to 37388
the credit of the general operations fund created in section 37389
3701.83 of the Revised Code for use only in administering and 37390
enforcing this chapter and rules adopted under it. 37391

~~(E)~~(F)(1) Except as otherwise provided in this section, the 37392
results of an inspection or investigation of a home that is 37393
conducted under this section, including any statement of 37394
deficiencies and all findings and deficiencies cited in the 37395
statement on the basis of the inspection or investigation, shall 37396
be used solely to determine the home's compliance with this 37397
chapter or another chapter of the Revised Code in any action or 37398
proceeding other than an action commenced under division (I) of 37399
section 3721.17 of the Revised Code. Those results of an 37400
inspection or investigation, that statement of deficiencies, and 37401
the findings and deficiencies cited in that statement shall not be 37402
used in any court or in any action or proceeding that is pending 37403
in any court and are not admissible in evidence in any action or 37404
proceeding unless that action or proceeding is an appeal of an 37405
action by the department of health under this chapter or is an 37406
action by any department or agency of the state to enforce this 37407
chapter or another chapter of the Revised Code. 37408

(2) Nothing in division (E)(1) of this section prohibits the 37409
results of an inspection or investigation conducted under this 37410
section from being used in a criminal investigation or 37411

prosecution. 37412

Sec. 3721.03. (A) As used in this section, "person" has the 37413
same meaning as in section 1.59 of the Revised Code. 37414

(B) The director of health shall enforce the provisions of 37415
sections 3721.01 to 3721.13 and 3721.99 of the Revised Code and 37416
may issue orders to secure compliance with the provisions of these 37417
sections and the rules adopted under them. The director may hold 37418
hearings, issue subpoenas, compel testimony, and make 37419
adjudications. 37420

The director may issue an order revoking a license in the 37421
event the director finds, upon hearing or opportunity afforded 37422
pursuant to Chapter 119. of the Revised Code, that any of the 37423
following apply to a person, county home, or district home 37424
licensed under section 3721.07 of the Revised Code: 37425

(1) Has violated any of the provisions of Chapter 3721. of 37426
the Revised Code or rules adopted by the ~~public health council~~ 37427
director under it; 37428

(2) Has violated any order issued by the director; 37429

(3) Is not, or any of its principals are not suitable, 37430
morally or financially to operate such an institution; 37431

(4) Is not furnishing humane, kind, and adequate treatment 37432
and care; 37433

(5) Has had a long-standing pattern of violations of this 37434
chapter or the rules adopted under it that has caused physical, 37435
emotional, mental, or psychosocial harm to one or more residents. 37436

Upon the issuance of any order of revocation, the person 37437
whose license is revoked, or the county home or district home that 37438
has its license revoked, may appeal in accordance with Chapter 37439
119. of the Revised Code. 37440

(C) Once the director notifies a person, county home, or district home licensed to operate a home that the license may be revoked or issues any order under this section, the person, county home, or district home shall not assign or transfer to another person or entity the right to operate the home. This prohibition shall remain in effect until proceedings under Chapter 119. of the Revised Code concerning the order or license revocation have been concluded or the director notifies the person, county home, or district home that the prohibition has been lifted.

If a license is revoked under this section, the former license holder shall not assign or transfer or consent to assignment or transfer of the right to operate the home. Any attempted assignment or transfer to another person or entity is void.

On revocation of a license, the former licensee shall take all necessary steps to cease operation of the home.

The director of health shall not accept a certificate of need application under section 3702.52 of the Revised Code regarding a home if the license to operate the home has been revoked under this section.

Sec. 3721.032. The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes and shall adopt rules pertaining to fire safety in homes as the marshal determines necessary. The rules adopted by the marshal shall be in addition to those fire safety rules that the board of building standards and the ~~public director of health council~~ are empowered to adopt. In the event of a dispute between the marshal and another officer having responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the marshal shall prevail.

Sec. 3721.04. (A) The ~~public~~ director of health ~~council~~ shall 37472
adopt and publish rules governing the operation of homes, which 37473
shall have uniform application throughout the state, and shall 37474
prescribe standards for homes with respect to, but not limited to, 37475
the following matters: 37476

(1) The minimum space requirements for occupants and 37477
equipping of the buildings in which homes are housed so as to 37478
ensure healthful, safe, sanitary, and comfortable conditions for 37479
all residents, so long as they are not inconsistent with Chapters 37480
3781. and 3791. of the Revised Code or with any rules adopted by 37481
the board of building standards and by the state fire marshal; 37482

(2) The number and qualifications of personnel, including 37483
management and nursing staff, for each class of home, and the 37484
qualifications of nurse aides, as defined in section 3721.21 of 37485
the Revised Code, used by long-term care facilities, as defined in 37486
that section; 37487

(3) The medical, rehabilitative, and recreational services to 37488
be provided by each class of home; 37489

(4) Dietetic services, including but not limited to 37490
sanitation, nutritional adequacy, and palatability of food; 37491

(5) The personal and social services to be provided by each 37492
class of home; 37493

(6) The business and accounting practices to be followed and 37494
the type of patient and business records to be kept by such homes; 37495

(7) The operation of adult day-care programs provided by and 37496
on the same site as homes licensed under this chapter; 37497

(8) The standards and procedures to be followed by 37498
residential care facilities in admitting and retaining a resident 37499
who requires the application of dressings, including requirements 37500
for charting and evaluating on a weekly basis; 37501

(9) The requirements for conducting weekly evaluations of residents receiving skilled nursing care in residential care facilities. 37502
37503
37504

(B) The ~~public health council~~ director may adopt whatever additional rules are necessary to carry out or enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code. 37505
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(C) The following apply to the ~~public health council~~ director when adopting rules under division (A)(1) of this section regarding the equipping of the buildings in which homes are housed: 37509
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(1) The rules shall not require that each resident sleeping room, or a percentage of the resident sleeping rooms, have a bathtub or shower that is directly accessible from or exclusively for the room. 37513
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(2) The rules shall require that the privacy and dignity of residents be protected when the residents are transported to and from bathing facilities, prepare for bathing, and bathe. 37517
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(D) The following apply to the ~~public health council~~ director when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in homes: 37520
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(1) When adopting rules applicable to residential care facilities, the ~~public health council~~ director shall take into consideration the effect that the following may have on the number of personnel needed: 37523
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(a) Provision of personal care services; 37527

(b) Provision of part-time, intermittent skilled nursing care pursuant to division (C) of section 3721.011 of the Revised Code; 37528
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(c) Provision of skilled nursing care to residents pursuant to division (D) of section 3721.011 of the Revised Code. 37530
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(2) When adopting rules applicable to nursing homes, the ~~public health council~~ director shall require each nursing home to do both of the following:

(a) Have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner;

(b) Have the following individuals provide a minimum daily average of two and one-half hours of direct care per resident:

(i) Registered nurses, including registered nurses who perform administrative and supervisory duties;

(ii) Licensed practical nurses, including licensed practical nurses who perform administrative and supervisory duties;

(iii) Nurse aides.

(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 section~~ section 1819 ~~and 1919~~ of the "Social Security Act," ~~49~~ 101 Stat. ~~620 1330-160 (1935 1987)~~, 42 U.S.C. ~~301 1395i-3~~, as amended, and section 1919 of the "Social Security Act," 101 Stat. 1330-182 (1987), 42 U.S.C. 1396r, as amended.

(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 provided by nursing homes:

(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.

(2) The rules shall require each nursing home with more than 37562
one hundred twenty beds to employ on a full-time basis one 37563
individual licensed as a social worker under Chapter 4757. of the 37564
Revised Code. 37565

(3) The rules shall require each nursing home to offer its 37566
residents medically related social services that assist the 37567
residents in attaining or maintaining their highest practicable 37568
physical, mental, and psychosocial well-being. 37569

Sec. 3721.07. Every person desiring to operate a home and the 37570
superintendent or administrator of each county home or district 37571
home for which a license as a residential care facility is sought 37572
shall apply for a license to the director of health. The director 37573
shall issue a license for the home, if after investigation of the 37574
applicant and, if required by section 3721.02 of the Revised Code, 37575
inspection of the home, the following requirements or conditions 37576
are satisfied or complied with: 37577

(A) The applicant has not been convicted of a felony or a 37578
crime involving moral turpitude; 37579

(B) The applicant is not violating any of the rules ~~made~~ 37580
adopted by the ~~public director of health council~~ or any order 37581
issued by the director ~~of health~~; 37582

(C) The applicant has not had a license to operate the home 37583
revoked pursuant to section 3721.03 of the Revised Code because of 37584
any act or omission that jeopardized a resident's health, welfare, 37585
or safety nor has the applicant had a long-standing pattern of 37586
violations of this chapter or rules adopted under it that caused 37587
physical, emotional, mental, or psychosocial harm to one or more 37588
residents. 37589

(D) The buildings in which the home is housed have been 37590
approved by the state fire marshal or a township, municipal, or 37591

other legally constituted fire department approved by the marshal. 37592
In the approval of a home such agencies shall apply standards 37593
prescribed by the board of building standards, and by the state 37594
fire marshal, and by section 3721.071 of the Revised Code. 37595

(E) The applicant, if it is an individual, or the principal 37596
participants, if it is an association or a corporation, is or are 37597
suitable financially and morally to operate a home; 37598

(F) The applicant is equipped to furnish humane, kind, and 37599
adequate treatment and care; 37600

(G) The home does not maintain or contain: 37601

(1) Facilities for the performance of major surgical 37602
procedures; 37603

(2) Facilities for providing therapeutic radiation; 37604

(3) An emergency ward; 37605

(4) A clinical laboratory unless it is under the supervision 37606
of a clinical pathologist who is a licensed physician in this 37607
state; 37608

(5) Facilities for radiological examinations unless such 37609
examinations are performed only by a person licensed to practice 37610
medicine, surgery, or dentistry in this state. 37611

(H) The home does not accept or treat outpatients, except 37612
upon the written orders of a physician licensed in this state, 37613
maternity cases, boarding children, and does not house transient 37614
guests, other than participants in an adult day-care program, for 37615
twenty-four hours or less; 37616

(I) The home is in compliance with sections 3721.28 and 37617
3721.29 of the Revised Code. 37618

When the director issues a license, the license shall remain 37619
in effect until revoked by the director or voided at the request 37620
of the applicant; provided, there shall be an annual renewal fee 37621

payable during the month of January of each calendar year. Any 37622
licensed home that does not pay its renewal fee in January shall 37623
pay, beginning the first day of February, a late fee of one 37624
hundred dollars for each week or part thereof that the renewal fee 37625
is not paid. If either the renewal fee or the late fee is not paid 37626
by the fifteenth day of February, the director may, in accordance 37627
with Chapter 119. of the Revised Code, revoke the home's license. 37628

If, under division (B)(5) of section 3721.03 of the Revised 37629
Code, the license of a person has been revoked or the license of a 37630
county home or district home to operate as a residential care 37631
facility has been revoked, the director of health shall not issue 37632
a license to the person or home at any time. A person whose 37633
license is revoked, and a county home or district home that has 37634
its license as a residential care facility revoked other than 37635
under division (B)(5) of section 3721.03 of the Revised Code, for 37636
any reason other than nonpayment of the license renewal fee or 37637
late fees shall not be issued a new license under this chapter 37638
until a period of one year following the date of revocation has 37639
elapsed. 37640

Any applicant who is denied a license may appeal in 37641
accordance with Chapter 119. of the Revised Code. 37642

Sec. 3721.071. The buildings in which a home is housed shall 37643
be equipped with both an automatic fire extinguishing system and 37644
fire alarm system. Such systems shall conform to standards set 37645
forth in the regulations of the board of building standards and 37646
the state fire marshal. 37647

The time for compliance with the requirements imposed by this 37648
section shall be January 1, 1975, except that the date for 37649
compliance with the automatic fire extinguishing requirements is 37650
extended to January 1, 1976, provided the buildings of the home 37651
are otherwise in compliance with fire safety laws and regulations 37652

and: 37653

(A) The home within thirty days after August 4, 1975, files a written plan with the state fire marshal's office that: 37654
37655

(1) Outlines the interim safety procedures which shall be carried out to reduce the possibility of a fire; 37656
37657

(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; 37658
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(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; 37663
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(4) Includes a statement regarding the expected date for the completion of the fire extinguishing system or fire alarm system, or both. 37667
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(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. 37670
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It is the express intent of the general assembly that the department of job and family services shall terminate payments under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, to those homes which do not comply with 37680
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37683

the requirements of this section for the submission of a written 37684
fire safety plan and the deadline for entering into contracts for 37685
the installation of systems. 37686

Sec. 3721.121. (A) As used in this section: 37687

(1) "Adult day-care program" means a program operated 37688
pursuant to rules adopted by the ~~public~~ director of health council 37689
under section 3721.04 of the Revised Code and provided by and on 37690
the same site as homes licensed under this chapter. 37691

(2) "Applicant" means a person who is under final 37692
consideration for employment with a home or adult day-care program 37693
in a full-time, part-time, or temporary position that involves 37694
providing direct care to an older adult. "Applicant" does not 37695
include a person who provides direct care as a volunteer without 37696
receiving or expecting to receive any form of remuneration other 37697
than reimbursement for actual expenses. 37698

(3) "Criminal records check" ~~and "older adult" have~~ has the 37699
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 37700

(4) "Home" means a home as defined in section 3721.10 of the 37701
Revised Code. 37702

(5) "Older adult" means a person age sixty or older. 37703

(B)(1) Except as provided in division (I) of this section, 37704
the chief administrator of a home or adult day-care program shall 37705
request that the superintendent of the bureau of criminal 37706
identification and investigation conduct a criminal records check 37707
~~with respect to~~ of each applicant. If an applicant for whom a 37708
criminal records check request is required under this division 37709
does not present proof of having been a resident of this state for 37710
the five-year period immediately prior to the date the criminal 37711
records check is requested or provide evidence that within that 37712
five-year period the superintendent has requested information 37713

about the applicant from the federal bureau of investigation in a 37714
criminal records check, the chief administrator shall request that 37715
the superintendent obtain information from the federal bureau of 37716
investigation as part of the criminal records check of the 37717
applicant. Even if an applicant for whom a criminal records check 37718
request is required under this division presents proof of having 37719
been a resident of this state for the five-year period, the chief 37720
administrator may request that the superintendent include 37721
information from the federal bureau of investigation in the 37722
criminal records check. 37723

(2) A person required by division (B)(1) of this section to 37724
request a criminal records check shall do both of the following: 37725

(a) Provide to each applicant for whom a criminal records 37726
check request is required under that division a copy of the form 37727
prescribed pursuant to division (C)(1) of section 109.572 of the 37728
Revised Code and a standard fingerprint impression sheet 37729
prescribed pursuant to division (C)(2) of that section, and obtain 37730
the completed form and impression sheet from the applicant; 37731

(b) Forward the completed form and impression sheet to the 37732
superintendent of the bureau of criminal identification and 37733
investigation. 37734

(3) An applicant provided the form and fingerprint impression 37735
sheet under division (B)(2)(a) of this section who fails to 37736
complete the form or provide fingerprint impressions shall not be 37737
employed in any position for which a criminal records check is 37738
required by this section. 37739

(C)(1) Except as provided in rules adopted by the director of 37740
health in accordance with division (F) of this section and subject 37741
to division (C)(2) of this section, no home or adult day-care 37742
program shall employ a person in a position that involves 37743
providing direct care to an older adult if the person has been 37744

convicted of or pleaded guilty to any of the following: 37745

(a) A violation of section 2903.01, 2903.02, 2903.03, 37746
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 37747
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 37748
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 37749
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 37750
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 37751
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 37752
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 37753
2925.22, 2925.23, or 3716.11 of the Revised Code. 37754

(b) A violation of an existing or former law of this state, 37755
any other state, or the United States that is substantially 37756
equivalent to any of the offenses listed in division (C)(1)(a) of 37757
this section. 37758

(2)(a) A home or an adult day-care program may employ 37759
conditionally an applicant for whom a criminal records check 37760
request is required under division (B) of this section prior to 37761
obtaining the results of a criminal records check regarding the 37762
individual, provided that the home or program shall request a 37763
criminal records check regarding the individual in accordance with 37764
division (B)(1) of this section not later than five business days 37765
after the individual begins conditional employment. In the 37766
circumstances described in division (I)(2) of this section, a home 37767
or adult day-care program may employ conditionally an applicant 37768
who has been referred to the home or adult day-care program by an 37769
employment service that supplies full-time, part-time, or 37770
temporary staff for positions involving the direct care of older 37771
adults and for whom, pursuant to that division, a criminal records 37772
check is not required under division (B) of this section. 37773

(b) A home or adult day-care program that employs an 37774
individual conditionally under authority of division (C)(2)(a) of 37775
this section shall terminate the individual's employment if the 37776

results of the criminal records check requested under division (B) 37777
of this section or described in division (I)(2) of this section, 37778
other than the results of any request for information from the 37779
federal bureau of investigation, are not obtained within the 37780
period ending thirty days after the date the request is made. 37781
Regardless of when the results of the criminal records check are 37782
obtained, if the results indicate that the individual has been 37783
convicted of or pleaded guilty to any of the offenses listed or 37784
described in division (C)(1) of this section, the home or program 37785
shall terminate the individual's employment unless the home or 37786
program chooses to employ the individual pursuant to division (F) 37787
of this section. Termination of employment under this division 37788
shall be considered just cause for discharge for purposes of 37789
division (D)(2) of section 4141.29 of the Revised Code if the 37790
individual makes any attempt to deceive the home or program about 37791
the individual's criminal record. 37792

(D)(1) Each home or adult day-care program shall pay to the 37793
bureau of criminal identification and investigation the fee 37794
prescribed pursuant to division (C)(3) of section 109.572 of the 37795
Revised Code for each criminal records check conducted pursuant to 37796
a request made under division (B) of this section. 37797

(2) A home or adult day-care program may charge an applicant 37798
a fee not exceeding the amount the home or program pays under 37799
division (D)(1) of this section. A home or program may collect a 37800
fee only if both of the following apply: 37801

(a) The home or program notifies the person at the time of 37802
initial application for employment of the amount of the fee and 37803
that, unless the fee is paid, the person will not be considered 37804
for employment; 37805

(b) The medical assistance program established under Chapter 37806
5111. of the Revised Code does not reimburse the home or program 37807
the fee it pays under division (D)(1) of this section. 37808

(E) The report of any criminal records check conducted 37809
pursuant to a request made under this section is not a public 37810
record for the purposes of section 149.43 of the Revised Code and 37811
shall not be made available to any person other than the 37812
following: 37813

(1) The individual who is the subject of the criminal records 37814
check or the individual's representative; 37815

(2) The chief administrator of the home or program requesting 37816
the criminal records check or the administrator's representative; 37817

(3) The administrator of any other facility, agency, or 37818
program that provides direct care to older adults that is owned or 37819
operated by the same entity that owns or operates the home or 37820
program; 37821

(4) A court, hearing officer, or other necessary individual 37822
involved in a case dealing with a denial of employment of the 37823
applicant or dealing with employment or unemployment benefits of 37824
the applicant; 37825

(5) Any person to whom the report is provided pursuant to, 37826
and in accordance with, division (I)(1) or (2) of this section; 37827

(6) The board of nursing for purposes of accepting and 37828
processing an application for a medication aide certificate issued 37829
under Chapter 4723. of the Revised Code. 37830

(F) In accordance with section 3721.11 of the Revised Code, 37831
the director of health shall adopt rules to implement this 37832
section. The rules shall specify circumstances under which a home 37833
or adult day-care program may employ a person who has been 37834
convicted of or pleaded guilty to an offense listed or described 37835
in division (C)(1) of this section but meets personal character 37836
standards set by the director. 37837

(G) The chief administrator of a home or adult day-care 37838

program shall inform each individual, at the time of initial 37839
application for a position that involves providing direct care to 37840
an older adult, that the individual is required to provide a set 37841
of fingerprint impressions and that a criminal records check is 37842
required to be conducted if the individual comes under final 37843
consideration for employment. 37844

(H) In a tort or other civil action for damages that is 37845
brought as the result of an injury, death, or loss to person or 37846
property caused by an individual who a home or adult day-care 37847
program employs in a position that involves providing direct care 37848
to older adults, all of the following shall apply: 37849

(1) If the home or program employed the individual in good 37850
faith and reasonable reliance on the report of a criminal records 37851
check requested under this section, the home or program shall not 37852
be found negligent solely because of its reliance on the report, 37853
even if the information in the report is determined later to have 37854
been incomplete or inaccurate; 37855

(2) If the home or program employed the individual in good 37856
faith on a conditional basis pursuant to division (C)(2) of this 37857
section, the home or program shall not be found negligent solely 37858
because it employed the individual prior to receiving the report 37859
of a criminal records check requested under this section; 37860

(3) If the home or program in good faith employed the 37861
individual according to the personal character standards 37862
established in rules adopted under division (F) of this section, 37863
the home or program shall not be found negligent solely because 37864
the individual prior to being employed had been convicted of or 37865
pleaded guilty to an offense listed or described in division 37866
(C)(1) of this section. 37867

(I)(1) The chief administrator of a home or adult day-care 37868
program is not required to request that the superintendent of the 37869

bureau of criminal identification and investigation conduct a 37870
criminal records check of an applicant if the applicant has been 37871
referred to the home or program by an employment service that 37872
supplies full-time, part-time, or temporary staff for positions 37873
involving the direct care of older adults and both of the 37874
following apply: 37875

(a) The chief administrator receives from the employment 37876
service or the applicant a report of the results of a criminal 37877
records check regarding the applicant that has been conducted by 37878
the superintendent within the one-year period immediately 37879
preceding the applicant's referral; 37880

(b) The report of the criminal records check demonstrates 37881
that the person has not been convicted of or pleaded guilty to an 37882
offense listed or described in division (C)(1) of this section, or 37883
the report demonstrates that the person has been convicted of or 37884
pleaded guilty to one or more of those offenses, but the home or 37885
adult day-care program chooses to employ the individual pursuant 37886
to division (F) of this section. 37887

(2) The chief administrator of a home or adult day-care 37888
program is not required to request that the superintendent of the 37889
bureau of criminal identification and investigation conduct a 37890
criminal records check of an applicant and may employ the 37891
applicant conditionally as described in this division, if the 37892
applicant has been referred to the home or program by an 37893
employment service that supplies full-time, part-time, or 37894
temporary staff for positions involving the direct care of older 37895
adults and if the chief administrator receives from the employment 37896
service or the applicant a letter from the employment service that 37897
is on the letterhead of the employment service, dated, and signed 37898
by a supervisor or another designated official of the employment 37899
service and that states that the employment service has requested 37900
the superintendent to conduct a criminal records check regarding 37901

the applicant, that the requested criminal records check will 37902
include a determination of whether the applicant has been 37903
convicted of or pleaded guilty to any offense listed or described 37904
in division (C)(1) of this section, that, as of the date set forth 37905
on the letter, the employment service had not received the results 37906
of the criminal records check, and that, when the employment 37907
service receives the results of the criminal records check, it 37908
promptly will send a copy of the results to the home or adult 37909
day-care program. If a home or adult day-care program employs an 37910
applicant conditionally in accordance with this division, the 37911
employment service, upon its receipt of the results of the 37912
criminal records check, promptly shall send a copy of the results 37913
to the home or adult day-care program, and division (C)(2)(b) of 37914
this section applies regarding the conditional employment. 37915

Sec. 3721.13. (A) The rights of residents of a home shall 37916
include, but are not limited to, the following: 37917

(1) The right to a safe and clean living environment pursuant 37918
to the medicare and medicaid programs and applicable state laws 37919
and ~~regulations prescribed~~ rules adopted by the public director of 37920
health ~~council~~; 37921

(2) The right to be free from physical, verbal, mental, and 37922
emotional abuse and to be treated at all times with courtesy, 37923
respect, and full recognition of dignity and individuality; 37924

(3) Upon admission and thereafter, the right to adequate and 37925
appropriate medical treatment and nursing care and to other 37926
ancillary services that comprise necessary and appropriate care 37927
consistent with the program for which the resident contracted. 37928
This care shall be provided without regard to considerations such 37929
as race, color, religion, national origin, age, or source of 37930
payment for care. 37931

(4) The right to have all reasonable requests and inquiries 37932

responded to promptly; 37933

(5) The right to have clothes and bed sheets changed as the 37934
need arises, to ensure the resident's comfort or sanitation; 37935

(6) The right to obtain from the home, upon request, the name 37936
and any specialty of any physician or other person responsible for 37937
the resident's care or for the coordination of care; 37938

(7) The right, upon request, to be assigned, within the 37939
capacity of the home to make the assignment, to the staff 37940
physician of the resident's choice, and the right, in accordance 37941
with the rules and written policies and procedures of the home, to 37942
select as the attending physician a physician who is not on the 37943
staff of the home. If the cost of a physician's services is to be 37944
met under a federally supported program, the physician shall meet 37945
the federal laws and regulations governing such services. 37946

(8) The right to participate in decisions that affect the 37947
resident's life, including the right to communicate with the 37948
physician and employees of the home in planning the resident's 37949
treatment or care and to obtain from the attending physician 37950
complete and current information concerning medical condition, 37951
prognosis, and treatment plan, in terms the resident can 37952
reasonably be expected to understand; the right of access to all 37953
information in the resident's medical record; and the right to 37954
give or withhold informed consent for treatment after the 37955
consequences of that choice have been carefully explained. When 37956
the attending physician finds that it is not medically advisable 37957
to give the information to the resident, the information shall be 37958
made available to the resident's sponsor on the resident's behalf, 37959
if the sponsor has a legal interest or is authorized by the 37960
resident to receive the information. The home is not liable for a 37961
violation of this division if the violation is found to be the 37962
result of an act or omission on the part of a physician selected 37963
by the resident who is not otherwise affiliated with the home. 37964

(9) The right to withhold payment for physician visitation if the physician did not visit the resident; 37965
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(10) The right to confidential treatment of personal and medical records, and the right to approve or refuse the release of these records to any individual outside the home, except in case of transfer to another home, hospital, or health care system, as required by law or rule, or as required by a third-party payment contract; 37967
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(11) The right to privacy during medical examination or treatment and in the care of personal or bodily needs; 37973
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(12) The right to refuse, without jeopardizing access to appropriate medical care, to serve as a medical research subject; 37975
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(13) The right to be free from physical or chemical restraints or prolonged isolation except to the minimum extent necessary to protect the resident from injury to self, others, or to property and except as authorized in writing by the attending physician for a specified and limited period of time and documented in the resident's medical record. Prior to authorizing the use of a physical or chemical restraint on any resident, the attending physician shall make a personal examination of the resident and an individualized determination of the need to use the restraint on that resident. 37977
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Physical or chemical restraints or isolation may be used in an emergency situation without authorization of the attending physician only to protect the resident from injury to self or others. Use of the physical or chemical restraints or isolation shall not be continued for more than twelve hours after the onset of the emergency without personal examination and authorization by the attending physician. The attending physician or a staff physician may authorize continued use of physical or chemical restraints for a period not to exceed thirty days, and at the end 37987
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of this period and any subsequent period may extend the 37996
authorization for an additional period of not more than thirty 37997
days. The use of physical or chemical restraints shall not be 37998
continued without a personal examination of the resident and the 37999
written authorization of the attending physician stating the 38000
reasons for continuing the restraint. 38001

If physical or chemical restraints are used under this 38002
division, the home shall ensure that the restrained resident 38003
receives a proper diet. In no event shall physical or chemical 38004
restraints or isolation be used for punishment, incentive, or 38005
convenience. 38006

(14) The right to the pharmacist of the resident's choice and 38007
the right to receive pharmaceutical supplies and services at 38008
reasonable prices not exceeding applicable and normally accepted 38009
prices for comparably packaged pharmaceutical supplies and 38010
services within the community; 38011

(15) The right to exercise all civil rights, unless the 38012
resident has been adjudicated incompetent pursuant to Chapter 38013
2111. of the Revised Code and has not been restored to legal 38014
capacity, as well as the right to the cooperation of the home's 38015
administrator in making arrangements for the exercise of the right 38016
to vote; 38017

(16) The right of access to opportunities that enable the 38018
resident, at the resident's own expense or at the expense of a 38019
third-party payer, to achieve the resident's fullest potential, 38020
including educational, vocational, social, recreational, and 38021
habilitation programs; 38022

(17) The right to consume a reasonable amount of alcoholic 38023
beverages at the resident's own expense, unless not medically 38024
advisable as documented in the resident's medical record by the 38025
attending physician or unless contradictory to written admission 38026

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| policies; | 38027 |
| (18) The right to use tobacco at the resident's own expense | 38028 |
| under the home's safety rules and under applicable laws and rules | 38029 |
| of the state, unless not medically advisable as documented in the | 38030 |
| resident's medical record by the attending physician or unless | 38031 |
| contradictory to written admission policies; | 38032 |
| (19) The right to retire and rise in accordance with the | 38033 |
| resident's reasonable requests, if the resident does not disturb | 38034 |
| others or the posted meal schedules and upon the home's request | 38035 |
| remains in a supervised area, unless not medically advisable as | 38036 |
| documented by the attending physician; | 38037 |
| (20) The right to observe religious obligations and | 38038 |
| participate in religious activities; the right to maintain | 38039 |
| individual and cultural identity; and the right to meet with and | 38040 |
| participate in activities of social and community groups at the | 38041 |
| resident's or the group's initiative; | 38042 |
| (21) The right upon reasonable request to private and | 38043 |
| unrestricted communications with the resident's family, social | 38044 |
| worker, and any other person, unless not medically advisable as | 38045 |
| documented in the resident's medical record by the attending | 38046 |
| physician, except that communications with public officials or | 38047 |
| with the resident's attorney or physician shall not be restricted. | 38048 |
| Private and unrestricted communications shall include, but are not | 38049 |
| limited to, the right to: | 38050 |
| (a) Receive, send, and mail sealed, unopened correspondence; | 38051 |
| (b) Reasonable access to a telephone for private | 38052 |
| communications; | 38053 |
| (c) Private visits at any reasonable hour. | 38054 |
| (22) The right to assured privacy for visits by the spouse, | 38055 |
| or if both are residents of the same home, the right to share a | 38056 |

room within the capacity of the home, unless not medically 38057
advisable as documented in the resident's medical record by the 38058
attending physician; 38059

(23) The right upon reasonable request to have room doors 38060
closed and to have them not opened without knocking, except in the 38061
case of an emergency or unless not medically advisable as 38062
documented in the resident's medical record by the attending 38063
physician; 38064

(24) The right to retain and use personal clothing and a 38065
reasonable amount of possessions, in a reasonably secure manner, 38066
unless to do so would infringe on the rights of other residents or 38067
would not be medically advisable as documented in the resident's 38068
medical record by the attending physician; 38069

(25) The right to be fully informed, prior to or at the time 38070
of admission and during the resident's stay, in writing, of the 38071
basic rate charged by the home, of services available in the home, 38072
and of any additional charges related to such services, including 38073
charges for services not covered under the medicare or medicaid 38074
program. The basic rate shall not be changed unless thirty days' 38075
notice is given to the resident or, if the resident is unable to 38076
understand this information, to the resident's sponsor. 38077

(26) The right of the resident and person paying for the care 38078
to examine and receive a bill at least monthly for the resident's 38079
care from the home that itemizes charges not included in the basic 38080
rates; 38081

(27)(a) The right to be free from financial exploitation; 38082

(b) The right to manage the resident's own personal financial 38083
affairs, or, if the resident has delegated this responsibility in 38084
writing to the home, to receive upon written request at least a 38085
quarterly accounting statement of financial transactions made on 38086
the resident's behalf. The statement shall include: 38087

- (i) A complete record of all funds, personal property, or possessions of a resident from any source whatsoever, that have been deposited for safekeeping with the home for use by the resident or the resident's sponsor;
- (ii) A listing of all deposits and withdrawals transacted, which shall be substantiated by receipts which shall be available for inspection and copying by the resident or sponsor.
- (28) The right of the resident to be allowed unrestricted access to the resident's property on deposit at reasonable hours, unless requests for access to property on deposit are so persistent, continuous, and unreasonable that they constitute a nuisance;
- (29) The right to receive reasonable notice before the resident's room or roommate is changed, including an explanation of the reason for either change.
- (30) The right not to be transferred or discharged from the home unless the transfer is necessary because of one of the following:
- (a) The welfare and needs of the resident cannot be met in the home.
- (b) The resident's health has improved sufficiently so that the resident no longer needs the services provided by the home.
- (c) The safety of individuals in the home is endangered.
- (d) The health of individuals in the home would otherwise be endangered.
- (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: 38118

(i) The resident's application, or a substantially similar 38119
previous application, has been denied by the county department of 38120
job and family services. 38121

(ii) If the resident appealed the denial pursuant to division 38122
(C) of section 5101.35 of the Revised Code, the director of job 38123
and family services has upheld the denial. 38124

(f) The home's license has been revoked, the home is being 38125
closed pursuant to section 3721.08, sections 5111.35 to 5111.62, 38126
or section 5155.31 of the Revised Code, or the home otherwise 38127
ceases to operate. 38128

(g) The resident is a recipient of medicaid, and the home's 38129
participation in the medicaid program is involuntarily terminated 38130
or denied. 38131

(h) The resident is a beneficiary under the medicare program, 38132
and the home's participation in the medicare program is 38133
involuntarily terminated or denied. 38134

(31) The right to voice grievances and recommend changes in 38135
policies and services to the home's staff, to employees of the 38136
department of health, or to other persons not associated with the 38137
operation of the home, of the resident's choice, free from 38138
restraint, interference, coercion, discrimination, or reprisal. 38139
This right includes access to a residents' rights advocate, and 38140
the right to be a member of, to be active in, and to associate 38141
with persons who are active in organizations of relatives and 38142
friends of nursing home residents and other organizations engaged 38143
in assisting residents. 38144

(32) The right to have any significant change in the 38145
resident's health status reported to the resident's sponsor. As 38146
soon as such a change is known to the home's staff, the home shall 38147
make a reasonable effort to notify the sponsor within twelve 38148

hours. 38149

(B) A sponsor may act on a resident's behalf to assure that 38150
the home does not deny the residents' rights under sections 38151
3721.10 to 3721.17 of the Revised Code. 38152

(C) Any attempted waiver of the rights listed in division (A) 38153
of this section is void. 38154

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the 38155
Revised Code: 38156

(A) "Long-term care facility" means either of the following: 38157

(1) A nursing home as defined in section 3721.01 of the 38158
Revised Code, ~~other than a nursing home or part of a nursing home~~ 38159
~~certified as an intermediate care facility for the mentally~~ 38160
~~retarded under Title XIX of the "Social Security Act," 49 Stat.~~ 38161
~~620 (1935), 42 U.S.C.A. 301, as amended;~~ 38162

(2) A facility or part of a facility that is certified as a 38163
skilled nursing facility or a nursing facility under Title XVIII 38164
or XIX of the "Social Security Act." 38165

(B) "Residential care facility" has the same meaning as in 38166
section 3721.01 of the Revised Code. 38167

(C) "Abuse" means knowingly causing physical harm or 38168
recklessly causing serious physical harm to a resident by physical 38169
contact with the resident or by use of physical or chemical 38170
restraint, medication, or isolation as punishment, for staff 38171
convenience, excessively, as a substitute for treatment, or in 38172
amounts that preclude habilitation and treatment. 38173

(D) "Neglect" means recklessly failing to provide a resident 38174
with any treatment, care, goods, or service necessary to maintain 38175
the health or safety of the resident when the failure results in 38176
serious physical harm to the resident. "Neglect" does not include 38177
allowing a resident, at the resident's option, to receive only 38178

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~~ 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:

(a) A licensed health professional practicing within the scope of the professional's license;

(b) An individual providing nursing and nursing-related

services in a religious nonmedical health care institution, if the 38209
individual has been trained in the principles of nonmedical care 38210
and is recognized by the institution as being competent in the 38211
administration of care within the religious tenets practiced by 38212
the residents of the institution. 38213

(L) "Licensed health professional" means all of the 38214
following: 38215

(1) An occupational therapist or occupational therapy 38216
assistant licensed under Chapter 4755. of the Revised Code; 38217

(2) A physical therapist or physical therapy assistant 38218
licensed under Chapter 4755. of the Revised Code; 38219

(3) A physician authorized under Chapter 4731. of the Revised 38220
Code to practice medicine and surgery, osteopathic medicine and 38221
surgery, or podiatry; 38222

(4) A physician assistant authorized under Chapter 4730. of 38223
the Revised Code to practice as a physician assistant; 38224

(5) A registered nurse or licensed practical nurse licensed 38225
under Chapter 4723. of the Revised Code; 38226

(6) A social worker or independent social worker licensed 38227
under Chapter 4757. of the Revised Code or a social work assistant 38228
registered under that chapter; 38229

(7) A speech-language pathologist or audiologist licensed 38230
under Chapter 4753. of the Revised Code; 38231

(8) A dentist or dental hygienist licensed under Chapter 38232
4715. of the Revised Code; 38233

(9) An optometrist licensed under Chapter 4725. of the 38234
Revised Code; 38235

(10) A pharmacist licensed under Chapter 4729. of the Revised 38236
Code; 38237

(11) A psychologist licensed under Chapter 4732. of the Revised Code; 38238
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(12) A chiropractor licensed under Chapter 4734. of the Revised Code; 38240
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(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code; 38242
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(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code. 38244
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(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. 38246
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(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated. 38254
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(O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services. 38257
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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 division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section. Each long-term care facility using a nurse aide on July 1, 1989, shall provide the nurse aide the preparation necessary to complete the 38260
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competency evaluation program by January 1, 1990. 38268

(2) Each nurse aide used by a long-term care facility on a 38269
full-time, temporary, per diem, or other basis on January 1, 1990, 38270
who either was not used by the facility on July 1, 1989, or was 38271
used by the facility on July 1, 1989, but had not successfully 38272
completed a competency evaluation program by January 1, 1990, 38273
shall be provided by the facility a competency evaluation program 38274
approved by the director under division (A) of section 3721.31 of 38275
the Revised Code or conducted by ~~him~~ the director under division 38276
(C) of that section. Each long-term care facility using a nurse 38277
aide described in division (A)(2) of this section shall provide 38278
the nurse aide the preparation necessary to complete the 38279
competency evaluation program by October 1, 1990, and shall assist 38280
the nurse aide in registering for the program. 38281

(B) Effective June 1, 1990, no long-term care facility shall 38282
use an individual as a nurse aide for more than four months unless 38283
the individual is competent to provide the services ~~he~~ the 38284
individual is to provide, the facility has received from the nurse 38285
aide registry established under section 3721.32 of the Revised 38286
Code the information concerning the individual provided through 38287
the registry, and one of the following is the case: 38288

(1) The individual was used by a facility as a nurse aide on 38289
a full-time, temporary, per diem, or other basis at any time 38290
during the period commencing July 1, 1989, and ending January 1, 38291
1990, and successfully completed, not later than October 1, 1990, 38292
a competency evaluation program approved by the director under 38293
division (A) of section 3721.31 of the Revised Code or conducted 38294
by ~~him~~ the director under division (C) of that section. 38295

(2) The individual has successfully completed a training and 38296
competency evaluation program approved by the director under 38297
division (A) of section 3721.31 of the Revised Code or conducted 38298
by ~~him~~ the director under division (C) of that section or has met 38299

the conditions specified in division (F) of this section and, in 38300
addition, if the training and competency evaluation program or the 38301
training, instruction, or education the individual completed in 38302
meeting the conditions specified in division (F) of this section 38303
was conducted by or in a long-term care facility, or if the 38304
director pursuant to division (E) of section 3721.31 of the 38305
Revised Code so requires, the individual has successfully 38306
completed a competency evaluation program conducted by the 38307
director. 38308

(3) Prior to July 1, 1989, if the long-term care facility is 38309
certified as a skilled nursing facility or a nursing facility 38310
under Title XVIII or XIX of the "Social Security Act," 49 Stat. 38311
620 (1935), 42 U.S.C.A. 301, as amended, or prior to January 1, 38312
1990, if the facility is not so certified, the individual 38313
completed a program that the director determines included a 38314
competency evaluation component no less stringent than the 38315
competency evaluation programs approved by ~~him~~ the director under 38316
division (A) of section 3721.31 of the Revised Code or conducted 38317
by ~~him~~ the director under division (C) of that section, and was 38318
otherwise comparable to the training and competency evaluation 38319
programs being approved by the director under division (A) of that 38320
section. 38321

(4) The individual is listed in a nurse aide registry 38322
maintained by another state and that state certifies that its 38323
program for training and evaluation of competency of nurse aides 38324
complies with Titles XVIII and XIX of the "Social Security Act" 38325
and regulations adopted thereunder. 38326

(5) Prior to July 1, 1989, the individual was found competent 38327
to serve as a nurse aide after the completion of a course of nurse 38328
aide training of at least one hundred hours' duration. 38329

(6) The individual is enrolled in a prelicensure program of 38330
nursing education approved by the board of nursing or by an agency 38331

of another state that regulates nursing education, has provided 38332
the long-term care facility with a certificate from the program 38333
indicating that the individual has successfully completed the 38334
courses that teach basic nursing skills including infection 38335
control, safety and emergency procedures, and personal care, and 38336
has successfully completed a competency evaluation program 38337
conducted by the director under division (C) of section 3721.31 of 38338
the Revised Code. 38339

(7) The individual has the equivalent of twelve months or 38340
more of full-time employment in the preceding five years as a 38341
hospital aide or orderly and has successfully completed a 38342
competency evaluation program conducted by the director under 38343
division (C) of section 3721.31 of the Revised Code. 38344

(C) Effective June 1, 1990, no long-term care facility shall 38345
continue for longer than four months to use as a nurse aide an 38346
individual who previously met the requirements of division (B) of 38347
this section but since most recently doing so has not performed 38348
nursing and nursing-related services for monetary compensation for 38349
twenty-four consecutive months, unless the individual successfully 38350
completes additional training and competency evaluation by 38351
complying with divisions (C)(1) and (2) of this section: 38352

(1) Doing one of the following: 38353

(a) Successfully completing a training and competency 38354
evaluation program approved by the director under division (A) of 38355
section 3721.31 of the Revised Code or conducted by ~~him~~ the 38356
director under division (C) of that section; 38357

(b) Successfully completing a training and competency 38358
evaluation program described in division (B)(4) of this section; 38359

(c) Meeting the requirements specified in division (B)(6) or 38360
(7) of this section. 38361

(2) If the training and competency evaluation program 38362

completed under division (C)(1)(a) of this section was conducted 38363
by or in a long-term care facility, or if the director pursuant to 38364
division (E) of section 3721.31 of the Revised Code so requires, 38365
successfully completing a competency evaluation program conducted 38366
by the director. 38367

(D)(1) The four-month periods provided for in divisions (B) 38368
and (C) of this section include any time, on or after June 1, 38369
1990, that an individual is used as a nurse aide on a full-time, 38370
temporary, per diem, or any other basis by the facility or any 38371
other long-term care facility. 38372

(2) During the four-month period provided for in division (B) 38373
of this section, during which a long-term care facility may, 38374
subject to division (E) of this section, use as a nurse aide an 38375
individual who does not have the qualifications specified in 38376
divisions (B)(1) to (7) of this section, a facility shall require 38377
the individual to comply with divisions (D)(2)(a) and (b) of this 38378
section: 38379

(a) Participate in one of the following: 38380

(i) If the individual has successfully completed a training 38381
and competency evaluation program approved by the director under 38382
division (A) of section 3721.31 of the Revised Code, and the 38383
program was conducted by or in a long-term care facility, or the 38384
director pursuant to division (E) of section 3721.31 of the 38385
Revised Code so requires, a competency evaluation program 38386
conducted by the director; 38387

(ii) If the individual is enrolled in a prelicensure program 38388
of nursing education described in division (B)(6) of this section 38389
and has completed or is working toward completion of the courses 38390
described in that division, or the individual has the experience 38391
described in division (B)(7) of this section, a competency 38392
evaluation program conducted by the director; 38393

(iii) A training and competency evaluation program approved 38394
by the director under division (A) of section 3721.31 of the 38395
Revised Code or conducted by ~~him~~ the director under division (C) 38396
of that section. 38397

(b) If the individual participates in or has successfully 38398
completed a training and competency evaluation program under 38399
division (D)(2)(a)(iii) of this section that is conducted by or in 38400
a long-term care facility, or the director pursuant to division 38401
(E) of section 3721.31 of the Revised Code so requires, ~~participate~~ 38402
participate in a competency evaluation program conducted by the 38403
director. 38404

(3) During the four-month period provided for in division (C) 38405
of this section, during which a long-term care facility may, 38406
subject to division (E) of this section, use as a nurse aide an 38407
individual who does not have the qualifications specified in 38408
divisions (C)(1) and (2) of this section, a facility shall require 38409
the individual to comply with divisions (D)(3)(a) and (b) of this 38410
section: 38411

(a) Participate in one of the following: 38412

(i) If the individual has successfully completed a training 38413
and competency evaluation program approved by the director, and 38414
the program was conducted by or in a long-term care facility, or 38415
the director pursuant to division (E) of section 3721.31 of the 38416
Revised Code so requires, a competency evaluation program 38417
conducted by the director; 38418

(ii) If the individual is enrolled in a prelicensure program 38419
of nursing education described in division (B)(6) of this section 38420
and has completed or is working toward completion of the courses 38421
described in that division, or the individual has the experience 38422
described in division (B)(7) of this section, a competency 38423
evaluation program conducted by the director; 38424

(iii) A training and competency evaluation program approved 38425
or conducted by the director. 38426

(b) If the individual participates in or has successfully 38427
completed a training and competency evaluation program under 38428
division (D)(3)(a)(iii) of this section that is conducted by or in 38429
a long-term care facility, or the director pursuant to division 38430
(E) of section 3721.31 of the Revised Code so requires, 38431
participate in a competency evaluation program conducted by the 38432
director. 38433

(E) A long-term care facility shall not permit an individual 38434
used by the facility as a nurse aide while participating in a 38435
training and competency evaluation program to provide nursing and 38436
nursing-related services unless both of the following are the 38437
case: 38438

(1) The individual has completed the number of hours of 38439
training that he must ~~complete~~ be completed prior to providing 38440
services to residents as prescribed by rules that shall be adopted 38441
by the director in accordance with Chapter 119. of the Revised 38442
Code; 38443

(2) The individual is under the personal supervision of a 38444
registered or licensed practical nurse licensed under Chapter 38445
4723. of the Revised Code. 38446

(F) An individual shall be considered to have satisfied the 38447
requirement, under division (B)(2) of this section, of having 38448
successfully completed a training and competency evaluation 38449
program conducted or approved by the director, if the individual 38450
meets both of the following conditions: 38451

(1) The individual, as of July 1, 1989, completed at least 38452
sixty hours divided between skills training and classroom 38453
instruction in the topic areas described in divisions (B)(1) to 38454
(8) of section 3721.30 of the Revised Code; 38455

(2) The individual received, as of that date, at least the
difference between seventy-five hours and the number of hours
actually spent in training and competency evaluation in supervised
practical nurse aide training or regular in-service nurse aide
education.

(G) The ~~public health council~~ director shall adopt rules in
accordance with Chapter 119. of the Revised Code specifying
persons, in addition to the director, who may establish competence
of nurse aides under division (B)(5) of this section, and
establishing criteria for determining whether an individual meets
the conditions specified in division (F) of this section.

(H) The rules adopted pursuant to divisions (E)(1) and (G) of
this section shall be no less stringent than the requirements,
guidelines, and procedures established by the United States
secretary of health and human services under sections 1819 and
1919 of the "Social Security Act."

Sec. 3721.29. In addition to competency evaluation programs
and training and competency evaluation programs required by this
chapter, each long-term care facility shall provide both of the
following to each nurse aide it uses:

(A) An orientation program that includes at least an
explanation of the organizational structure of the facility, its
policies and procedures, its philosophy of care, a description of
its resident population, and an enumeration of its employee rules;

(B) Regular performance review and in-service education to
assure that individuals working in the facility as nurse aides are
competent to perform the nursing and nursing-related services they
perform. In-service education shall include training for nurse
aides providing nursing and nursing-related services to residents
and patients with cognitive impairments.

The ~~public~~ director of health council shall adopt rules to 38486
implement the purposes of this section. The rules shall be no less 38487
stringent than the requirements, guidelines, and procedures 38488
established by the United States secretary of health and human 38489
services under sections 1819 and 1919 of the "Social Security 38490
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. 38491

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the 38492
Revised Code: 38493

(A) "Bed surrender" means the following: 38494

(1) In the case of a nursing home, the removal of a bed from 38495
a nursing home's licensed capacity in a manner that reduces the 38496
total licensed capacity of all nursing homes; 38497

(2) In the case of a hospital, the removal of a hospital bed 38498
from registration under section 3701.07 of the Revised Code as a 38499
skilled nursing facility bed or long-term care bed in a manner 38500
that reduces the total number of hospital beds registered under 38501
that section as skilled nursing facility beds or long-term care 38502
beds. 38503

(B) "Change of operator" means an entering operator becoming 38504
the operator of a nursing home or hospital in the place of the 38505
exiting operator. 38506

(1) Actions that constitute a change of operator include the 38507
following: 38508

(a) A change in an exiting operator's form of legal 38509
organization, including the formation of a partnership or 38510
corporation from a sole proprietorship; 38511

(b) A transfer of all the exiting operator's ownership 38512
interest in the operation of the nursing home or hospital to the 38513
entering operator, regardless of whether ownership of any or all 38514
of the real property or personal property associated with the 38515

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| nursing home or hospital is also transferred; | 38516 |
| (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; | 38517 38518 38519 |
| (d) If the exiting operator is a partnership, dissolution of the partnership; | 38520 38521 |
| (e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply: | 38522 38523 |
| (i) The change in composition does not cause the partnership's dissolution under state law. | 38524 38525 |
| (ii) The partners agree that the change in composition does not constitute a change in operator. | 38526 38527 |
| (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. | 38528 38529 38530 38531 |
| (2) The following, alone, do not constitute a change of operator: | 38532 38533 |
| (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; | 38534 38535 38536 |
| (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; | 38537 38538 38539 38540 |
| (c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator. | 38541 38542 38543 38544 |
| (C) "Effective date of a change of operator" means the day an | 38545 |

entering operator becomes the operator of a nursing home or hospital. 38546
38547

(D) "Entering operator" means the person or government entity 38548
that will become the operator of a nursing home or hospital on the 38549
effective date of a change of operator. 38550

(E) "Exiting operator" means an operator that will cease to 38551
be the operator of a nursing home or hospital on the effective 38552
date of a change of operator. 38553

(F) "Franchise permit fee rate" means the following: 38554

(1) For fiscal year 2012, eleven dollars and forty-seven 38555
cents; 38556

(2) For fiscal year 2013 and each fiscal year thereafter, 38557
eleven dollars and sixty-seven cents. 38558

(G) "Hospital" has the same meaning as in section 3727.01 of 38559
the Revised Code. 38560

(H) "Hospital long-term care unit" means any distinct part of 38561
a hospital in which any of the following beds are located: 38562

(1) Beds registered pursuant to section 3701.07 of the 38563
Revised Code as skilled nursing facility beds or long-term care 38564
beds; 38565

(2) Beds licensed as nursing home beds under section 3721.02 38566
or 3721.09 of the Revised Code. 38567

(I) "Indirect guarantee percentage" means the percentage 38568
specified in section 1903(w)(4)(C)(ii) of the "Social Security 38569
Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is 38570
to be used in determining whether a class of providers is 38571
indirectly held harmless for any portion of the costs of a 38572
broad-based health-care-related tax. If the indirect guarantee 38573
percentage changes during a fiscal year, the indirect guarantee 38574
percentage is the following: 38575

- (1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change; 38576
38577
- (2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage. 38578
38579
- ~~(J) "Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.~~ 38580
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- ~~(K) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.~~ 38588
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- ~~(L) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days.~~ 38590
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- ~~(M)~~(K) "Medicare" means the program established by Title XVIII. 38597
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- ~~(N)~~(L) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 38599
38600
- ~~(O)~~(M)(1) "Nursing home" means all of the following: 38601
- (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; 38602
38603
38604
- (b) A facility or part of a facility, other than a hospital, 38605

that is certified as a skilled nursing facility under Title XVIII; 38606

(c) A nursing facility, other than a portion of a hospital 38607
certified as a nursing facility. 38608

(2) "Nursing home" does not include ~~any~~ either of the 38609
following: 38610

(a) A county home, county nursing home, or district home 38611
operated pursuant to Chapter 5155. of the Revised Code; 38612

(b) A nursing home maintained and operated by the department 38613
of veterans services under section 5907.01 of the Revised Code; 38614

~~(c) A nursing home or part of a nursing home licensed under 38615
section 3721.02 or 3721.09 of the Revised Code that is certified 38616
as an intermediate care facility for the mentally retarded under 38617
Title XIX. 38618~~

~~(P)~~(N) "Operator" means the person or government entity 38619
responsible for the daily operating and management decisions for a 38620
nursing home or hospital. 38621

~~(Q)~~(O) "Title XIX" means Title XIX of the "Social Security 38622
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 38623

~~(R)~~(P) "Title XVIII" means Title XVIII of the "Social 38624
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 38625

Sec. 3721.51. The department of job and family services shall 38626
do all of the following: 38627

(A) Subject to sections 3721.512, 3721.513, and 3721.531 of 38628
the Revised Code and divisions (C) and (D) of this section and for 38629
the purposes specified in section 3721.56 of the Revised Code, 38630
determine an annual franchise permit fee on each nursing home in 38631
an amount equal to the franchise permit fee rate multiplied by the 38632
product of the following: 38633

(1) The number of beds licensed as nursing home beds, plus 38634

any other beds certified as skilled nursing facility beds under 38635
Title XVIII or nursing facility beds under Title XIX on the first 38636
day of May of the calendar year in which the fee is determined 38637
pursuant to division (A) of section 3721.53 of the Revised Code; 38638

(2) The number of days in the fiscal year beginning on the 38639
first day of July of the calendar year in which the fee is 38640
determined pursuant to division (A) of section 3721.53 of the 38641
Revised Code. 38642

(B) Subject to sections 3721.512, 3721.513, and 3721.531 of 38643
the Revised Code and divisions (C) and (D) of this section and for 38644
the purposes specified in section 3721.56 of the Revised Code, 38645
determine an annual franchise permit fee on each hospital in an 38646
amount equal to the franchise permit fee rate multiplied by the 38647
product of the following: 38648

(1) The number of beds registered pursuant to section 3701.07 38649
of the Revised Code as skilled nursing facility beds or long-term 38650
care beds, plus any other beds licensed as nursing home beds under 38651
section 3721.02 or 3721.09 of the Revised Code, on the first day 38652
of May of the calendar year in which the fee is determined 38653
pursuant to division (A) of section 3721.53 of the Revised Code; 38654

(2) The number of days in the fiscal year beginning on the 38655
first day of July of the calendar year in which the fee is 38656
determined pursuant to division (A) of section 3721.53 of the 38657
Revised Code. 38658

(C) If the total amount of the franchise permit fee assessed 38659
under divisions (A) and (B) of this section for a fiscal year 38660
exceeds the indirect guarantee percentage of the actual net 38661
patient revenue for all nursing homes and hospital long-term care 38662
units for that fiscal year and seventy-five per cent or more of 38663
the combined total number of nursing homes and hospital long-term 38664
care units receive enhanced medicaid payments or other state 38665

payments equal to seventy-five per cent or more of their total 38666
franchise permit fee assessments, do both of the following: 38667

(1) Recalculate the assessments under divisions (A) and (B) 38668
of this section using a per bed per day rate equal to the indirect 38669
guarantee percentage of actual net patient revenue for all nursing 38670
homes and hospital long-term care units for that fiscal year; 38671

(2) Refund the difference between the amount of the franchise 38672
permit fee assessed for that fiscal year under divisions (A) and 38673
(B) of this section and the amount recalculated under division 38674
(C)(1) of this section as a credit against the assessments imposed 38675
under divisions (A) and (B) of this section for the subsequent 38676
fiscal year. 38677

(D) If the United States centers for medicare and medicaid 38678
services determines that the franchise permit fee established by 38679
sections 3721.50 to 3721.58 of the Revised Code is an 38680
impermissible health care-related tax under section 1903(w) of the 38681
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 38682
amended, take all necessary actions to cease implementation of 38683
sections 3721.50 to 3721.58 of the Revised Code in accordance with 38684
rules adopted under section 3721.58 of the Revised Code. 38685

Sec. 3723.06. (A) The director of health shall license radon 38686
testers, mitigation specialists, and mitigation contractors. Each 38687
applicant for a license shall submit a completed application to 38688
the director on a form the director shall prescribe and furnish. 38689

(B) In accordance with rules adopted ~~by the public health~~ 38690
~~council~~ under section 3723.09 of the Revised Code, the director 38691
shall issue the appropriate license to each applicant that pays 38692
the license fee prescribed by the ~~council~~ director, meets the 38693
licensing criteria established by the ~~council~~ director, and 38694
complies with any other licensing and training requirements 38695
established by the ~~council~~ director. An individual, business 38696

entity, or government entity may hold more than one license issued 38697
under this section, but a separate application is required for 38698
each license. 38699

(C) Notwithstanding division (B) of this section, the 38700
director shall issue a radon mitigation contractor license on 38701
request to the holder of a radon mitigation specialist license if 38702
the license holder is the owner or chief stockholder of a business 38703
entity for which ~~he~~ the license holder is the only individual who 38704
will work as a radon mitigation specialist. The licensing criteria 38705
and any other licensing and training requirements the individual 38706
was required to meet to qualify for the radon mitigation 38707
specialist license are hereby deemed to satisfy any and all 38708
criteria and requirements for a radon mitigation contractor 38709
license. A license issued under this division shall expire at the 38710
same time as the individual's radon mitigation specialist license. 38711
No license fee shall be imposed for a license issued under this 38712
division. 38713

(D) A license issued under this section expires biennially 38714
and may be renewed by the director in accordance with criteria and 38715
procedures established ~~by the public health council~~ in rules 38716
adopted under section 3723.09 of the Revised Code and on payment 38717
of the license renewal fee prescribed ~~by the council~~ in those 38718
rules. 38719

(E) In accordance with Chapter 119. of the Revised Code, the 38720
director may do either of the following: 38721

(1) Refuse to issue a license to an individual, business 38722
entity, or government entity that does not meet the requirements 38723
of this chapter or the rules adopted under it or has been in 38724
violation of those requirements; 38725

(2) Suspend, revoke, or refuse to renew the license of an 38726
individual, business entity, or government entity that is or has 38727

been in violation of the requirements of this chapter or the rules 38728
adopted under it. 38729

Sec. 3723.07. The director of health shall approve all of the 38730
following: 38731

(A) Licensure training courses for radon testers and 38732
mitigation specialists; 38733

(B) Training courses for employees of mitigation contractors; 38734

(C) Radon laboratories. 38735

Each applicant for approval shall submit a completed 38736
application to the director on a form the director shall prescribe 38737
and furnish. 38738

In accordance with rules adopted ~~by the public health council~~ 38739
under section 3723.09 of the Revised Code, the director shall 38740
issue the appropriate approval to each applicant that pays the 38741
approval fee prescribed by the ~~council~~ director and meets the 38742
criteria for approval established by the ~~council~~ director. 38743

In accordance with Chapter 119. of the Revised Code, the 38744
director may refuse to issue an approval and may revoke or suspend 38745
an approval issued under this section if the operator of the 38746
course or laboratory fails to meet the criteria established by the 38747
~~public health council~~ director. 38748

Sec. 3723.09. (A) To protect the health of individuals 38749
inhabiting, occupying, or frequenting buildings, the ~~public~~ 38750
director of health ~~council~~ shall adopt rules to implement the 38751
requirements of this chapter. All rules adopted under this section 38752
shall be adopted in accordance with Chapter 119. of the Revised 38753
Code. 38754

(B) The ~~public health council~~ director shall adopt rules 38755
establishing criteria and procedures ~~to be followed by the~~ 38756

~~director of health in for~~ issuing and renewing licenses under 38757
section 3723.06 of the Revised Code to radon testers, mitigation 38758
specialists, and mitigation contractors. The rules may require 38759
that all applicants for licensure as a radon tester or mitigation 38760
specialist pass an examination. If an examination is required, the 38761
rules may require applicants to pass an examination conducted by 38762
the department or an appropriate examination conducted by the 38763
United States environmental protection agency. 38764

(C) The ~~public health council director~~ shall adopt rules 38765
establishing criteria and procedures ~~to be followed by the~~ 38766
~~director of health in for~~ approving training courses under section 38767
3723.07 of the Revised Code. The rules may require that 38768
participants in training courses pass an examination conducted by 38769
the operator of the course and may require that the examinations 38770
be approved by the director ~~of health~~. 38771

(D) The ~~public health council director~~ shall adopt rules 38772
establishing criteria and procedures ~~to be followed by the~~ 38773
~~director of health in for~~ approving radon laboratories under 38774
section 3723.07 of the Revised Code. 38775

(E) The ~~public health council director~~ shall adopt rules 38776
establishing reasonable fees for licenses, license renewals, radon 38777
laboratory approvals, and training course approvals. 38778

(F) The ~~public health council director~~ shall adopt rules 38779
establishing standards to be followed by licensed radon testers, 38780
mitigation specialists, and mitigation contractors for the 38781
prevention of hazards to the public health, including standards 38782
for worker protection, record keeping, and training of employees 38783
of licensed radon mitigation contractors. 38784

(G) The ~~public health council director~~ shall adopt rules 38785
establishing procedures to be followed by any individual, business 38786
entity, or government entity licensed by another state to practice 38787

as a radon tester, mitigation specialist, or mitigation contractor 38788
in providing notice to the director of health prior to commencing 38789
practice in this state pursuant to section 3723.03 of the Revised 38790
Code. 38791

(H) The ~~public health council~~ director may adopt rules that 38792
require licensed radon testers and mitigation specialists to 38793
report to the director ~~of health~~, by street address, radon test 38794
results that indicate the presence of radon at a level considered 38795
to be dangerous as determined by the ~~council~~ director. The rules 38796
may require the reporting of screening measurements, follow-up 38797
measurements, post-mitigation measurements, and, if it is known 38798
that radon mitigation has been performed, the methods of 38799
mitigation that were used. Any information required to be reported 38800
to the director under these rules is not a public record under 38801
section 149.43 of the Revised Code, and shall not be released 38802
except in aggregate statistical form. 38803

Sec. 3725.02. (A) No person other than a hospital shall 38804
collect plasma, regardless of the use for which the plasma is 38805
intended, except at a plasmapheresis center holding a current, 38806
valid certificate of approval issued by the director of health. 38807

Whoever violates this division is guilty of a misdemeanor of 38808
the fourth degree. 38809

(B) The ~~public health council~~ director shall adopt such rules 38810
as are necessary to carry out this chapter. 38811

Sec. 3727.01. (A) As used in this section, "health 38812
maintenance organization" means a public or private organization 38813
organized under the law of any state that is qualified under 38814
section 1310(d) of Title XIII of the "Public Health Service Act," 38815
87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the 38816
following: 38817

(1) Provides or otherwise makes available to enrolled participants health care services including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive service, and out-of-area coverage;

(2) Is compensated, except for copayments, for the provision of basic health care services to enrolled participants by a payment that is paid on a periodic basis without regard to the date the health care services are provided and that is fixed without regard to the frequency, extent, or kind of health service actually provided;

(3) Provides physician services primarily in either of the following ways:

(a) Directly through physicians who are either employees or partners of the organization;

(b) Through arrangements with individual physicians or one or more groups of physicians organized on a group-practice or individual-practice basis.

(B) As used in this chapter:

(1) "~~Children's hospital~~" ~~has the same meaning as in section 3702.51 of the Revised Code~~ means any of the following:

(a) 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 inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care

beds, and in which at least seventy-five per cent of annual 38848
inpatient discharges for the preceding two calendar years were 38849
individuals less than eighteen years of age; 38850

(c) A distinct portion of a hospital, if the hospital is 38851
registered under section 3701.07 of the Revised Code as a 38852
children's hospital and the children's hospital meets all the 38853
requirements of division (B)(1)(a) of this section. 38854

(2) "Hospital" means an institution classified as a hospital 38855
under section 3701.07 of the Revised Code in which are provided to 38856
inpatients diagnostic, medical, surgical, obstetrical, 38857
psychiatric, or rehabilitation care for a continuous period longer 38858
than twenty-four hours or a hospital operated by a health 38859
maintenance organization. "Hospital" does not include a facility 38860
licensed under Chapter 3721. of the Revised Code, a health care 38861
facility operated by the department of mental health or the 38862
department of developmental disabilities, a health maintenance 38863
organization that does not operate a hospital, the office of any 38864
private licensed health care professional, whether organized for 38865
individual or group practice, or a clinic that provides ambulatory 38866
patient services and where patients are not regularly admitted as 38867
inpatients. "Hospital" also does not include an institution for 38868
the sick that is operated exclusively for patients who use 38869
spiritual means for healing and for whom the acceptance of medical 38870
care is inconsistent with their religious beliefs, accredited by a 38871
national accrediting organization, exempt from federal income 38872
taxation under section 501 of the Internal Revenue Code of 1986, 38873
100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing 38874
twenty-four hour nursing care pursuant to the exemption in 38875
division (E) of section 4723.32 of the Revised Code from the 38876
licensing requirements of Chapter 4723. of the Revised Code. 38877

(3) "Joint commission" means the commission formerly known as 38878
the joint commission on accreditation of healthcare organizations 38879

or the joint commission on accreditation of hospitals. 38880

Sec. 3727.42. (A) Every hospital shall compile and make 38881
available for inspection by the public a price information list 38882
containing the information specified in division (B) of this 38883
section and shall periodically update the list to maintain current 38884
information. The price information list shall be compiled and made 38885
available in a format that complies with the electronic 38886
transaction standards and code sets adopted by the United States 38887
secretary of health and human services under 42 U.S.C. 1320d-2. 38888

(B) Each price information list required by division (A) of 38889
this section shall contain all of the following information: 38890

(1) The usual and customary room and board charges for each 38891
level of care within the hospital, including but not limited to 38892
private rooms, semiprivate rooms, other multiple patient rooms, 38893
and intensive care and other specialty units; 38894

(2) Rates charged for nursing care, if the hospital charges 38895
separately for nursing care; 38896

(3) The usual and customary charges, stated separately for 38897
inpatients and outpatients if different charges are imposed, for 38898
any of the following services provided by the hospital: 38899

(a) The thirty most common x-ray and radiological procedures; 38900

(b) The thirty most common laboratory procedures; 38901

(c) Emergency room services; 38902

(d) Operating room services; 38903

(e) Delivery room services; 38904

(f) Physical, occupational, and pulmonary therapy services; 38905

(g) Any other services designated as high volume services by 38906
a rule which shall be adopted by the ~~public~~ director of health 38907
~~council~~. 38908

(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;

(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.

(C) Every hospital shall do all of the following with the price information list required by this section:

(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;

(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;

(3) Make the list available free of charge on the hospital's internet web site.

Sec. 3729.01. As used in this chapter:

(A) "Camp operator" means the operator of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp.

(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.

(C) "Combined park-camp" means any tract of land upon which a combination of five or more self-contained recreational vehicles or portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities. A tract of land that is

subdivided for lease or other contract of the individual lots is a 38939
combined park-camp if a combination of five or more recreational 38940
vehicles or portable camping units are placed on it for 38941
recreation, vacation, or business purposes. 38942

"Combined park-camp" does not include any tract of land used 38943
solely as a temporary park-camp or solely as a manufactured home 38944
park. 38945

(D) "Dependent recreational vehicle" means a recreational 38946
vehicle other than a self-contained recreational vehicle. 38947
"Dependent recreational vehicle" includes a park model. 38948

(E) "Development" means any artificial change to improved or 38949
unimproved real estate, including, without limitation, buildings 38950
or structures, dredging, filling, grading, paving, excavation or 38951
drilling operations, or storage of equipment or materials, and the 38952
construction, expansion, or substantial alteration of a 38953
recreational vehicle park, recreation camp, or combined park-camp, 38954
for which plan review is required under division (A) of section 38955
3729.03 of the Revised Code. "Development" does not include the 38956
building, construction, erection, or manufacture of any building 38957
to which section 3781.06 of the Revised Code is applicable. 38958

(F) "Director of health" means the director of health or the 38959
director's authorized representative. 38960

(G) "Flood" or "flooding" means either of the following: 38961

(1) A general and temporary condition of partial or complete 38962
inundation of normally dry land areas from any of the following: 38963

(a) The overflow of inland or tidal waters; 38964

(b) The unusual and rapid accumulation or runoff of surface 38965
waters from any source; 38966

(c) Mudslides that are proximately caused by flooding as 38967
defined in division (G)(1)(b) of this section and that are akin to 38968

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.

(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.

(H) "Flood plain" means the area adjoining any river, stream,
watercourse, or lake that has been or may be covered by flood
water.

(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.

(J) "Manufactured home park" has the same meaning as in
section ~~3733.01~~ 4781.01 of the Revised Code.

(K) "One-hundred-year flood" means a flood having a one per
cent chance of being equaled or exceeded in any given year.

(L) "One-hundred-year flood plain" means that portion of a
flood plain inundated by a one-hundred-year flood.

(M) "Operator" means the person who has responsible charge of
a recreational vehicle park, recreation camp, combined park-camp,
or temporary park-camp and who is licensed under this chapter.

(N) "Park model" means a recreational vehicle that 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 not more than four hundred square feet when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for operation of installed features and appliances.

(O) "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.

(P) "Portable camping units" means dependent recreational vehicles, tents, portable sleeping equipment, and similar camping equipment used for travel, recreation, vacation, or business purposes.

(Q) "Recreation camp" means any tract of land upon which five or more portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the camp. A tract of land that is subdivided for lease or other contract of the individual lots is a recreation camp if five or more portable camping units are placed on it for recreation, vacation, or business purposes.

"Recreation camp" does not include any tract of land used solely for the storage or display for sale of dependent recreational vehicles, solely as a temporary park-camp, or solely as a manufactured home park.

(R) "Recreational vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(S) "Recreational vehicle park" means any tract of land used for parking five or more self-contained recreational vehicles and

includes any roadway, building, structure, vehicle, or enclosure 39031
used or intended for use as part of the park facilities and any 39032
tract of land that is subdivided for lease or other contract of 39033
the individual lots for the express or implied purpose of placing 39034
self-contained recreational vehicles for recreation, vacation, or 39035
business purposes. 39036

"Recreational vehicle park" does not include any tract of 39037
land used solely for the storage or display for sale of 39038
self-contained recreational vehicles, solely as a temporary 39039
park-camp, or solely as a manufactured home park. 39040

(T) "Self-contained recreational vehicle" means a 39041
recreational vehicle that can operate independent of connections 39042
to sewer and water and has plumbing fixtures or appliances all of 39043
which are connected to sewage holding tanks located within the 39044
vehicle. "Self-contained recreational vehicle" includes a park 39045
model. 39046

(U) "Substantially alter" means a change in the layout or 39047
design of a recreational vehicle park, recreation camp, combined 39048
park-camp, or temporary park-camp, including, without limitation, 39049
the movement of utilities or changes in established streets, lots, 39050
or sites or in other facilities. 39051

(V) "Temporary park-camp" means any tract of land used for a 39052
period not to exceed a total of twenty-one days per calendar year 39053
for the purpose of parking five or more recreational vehicles, 39054
dependent recreational vehicles, or portable camping units, or any 39055
combination thereof, for one or more periods of time that do not 39056
exceed seven consecutive days or parts thereof. 39057

(W) "Tract" means a contiguous area of land that consists of 39058
one or more parcels, lots, or sites that have been separately 39059
surveyed regardless of whether the individual parcels, lots, or 39060
sites have been recorded and regardless of whether the one or more 39061

parcels, lots, or sites are under common or different ownership. 39062

Sec. 3729.02. (A) The ~~public~~ director of health council, 39063
subject to Chapter 119. of the Revised Code, shall adopt rules of 39064
uniform application throughout the state governing the review of 39065
plans and issuance of licenses for and the location, layout, 39066
construction, drainage, sanitation, safety, and operation of 39067
recreational vehicle parks, recreation camps, and combined 39068
park-camps. The rules shall not apply to the construction, 39069
erection, or manufacture of any building to which section 3781.06 39070
of the Revised Code is applicable. 39071

(B) The ~~public health council~~ director, subject to Chapter 39072
119. of the Revised Code, shall adopt rules of uniform application 39073
throughout the state governing the review of plans and issuance of 39074
licenses for and the layout, sanitation, safety, and operation of 39075
temporary park-camps. The rules shall not apply to the 39076
construction, erection, or manufacture of any building to which 39077
section 3781.06 of the Revised Code is applicable. 39078

Sec. 3729.03. (A) No person shall cause development to occur 39079
within any portion of a recreational vehicle park, recreation 39080
camp, or combined park-camp until the plans for the development 39081
have been submitted to and reviewed and approved by the director 39082
of health. This division does not require that plans be submitted 39083
to the director for approval for the replacement of recreational 39084
vehicles or portable camping units on previously approved sites in 39085
a recreational vehicle park, recreation camp, or combined 39086
park-camp when no development is to occur in connection with the 39087
replacement. Within thirty days after receipt of the plans, all 39088
supporting documents and materials required to complete the 39089
review, and the applicable plan review fee established under 39090
division (D) of this section, the director shall approve or 39091
disapprove the plans. 39092

(B) Any person aggrieved by the director's disapproval of a set of plans under division (A) of this section may request a hearing on the matter within thirty days after receipt of the director's notice of the disapproval. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, the disapproval may be appealed in the manner provided in section 119.12 of the Revised Code.

(C) The director shall establish a system by which development occurring within a recreational vehicle park, recreation camp, or combined park-camp is inspected or verified in accordance with rules adopted under division (A) of section 3729.02 of the Revised Code to ensure that the development complies with the plans approved under division (A) of this section.

(D) The ~~public health council~~ director shall establish fees for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section.

(E) The director shall charge the appropriate fees established under division (D) of this section for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section. All such plan review and inspection fees received by the director shall be transmitted to the treasurer of state and shall be credited to the general operations fund created in section 3701.83 of the Revised Code. Moneys so credited to the fund shall be used only for the purpose of administering and enforcing this chapter and rules adopted under it.

(F) Plan approvals issued under this section do not constitute an exemption from the land use and building requirements of the political subdivision in which the recreational vehicle park, recreation camp, or combined park-camp is or is to be located.

Sec. 3729.04. (A) No person shall cause development to occur 39125
within any portion of a recreational vehicle park, recreation 39126
camp, combined park-camp, or temporary park-camp that is located 39127
within a one-hundred-year flood plain in a municipal corporation 39128
unless the person first obtains a permit therefor from the 39129
municipal corporation in accordance with the flood plain 39130
management ordinance of the municipal corporation. 39131

(B) No person shall cause development to occur within any 39132
portion of a recreational vehicle park, recreation camp, combined 39133
park-camp, or temporary park-camp that is located within a 39134
one-hundred-year flood plain in an unincorporated area unless the 39135
person first obtains a permit therefor from the board of county 39136
commissioners of the county in which the development is to occur 39137
in accordance with the flood plain management resolution of the 39138
county adopted under section 307.37 of the Revised Code. 39139

(C) If development for which a permit is required under 39140
division (A) or (B) of this section is to occur on a site where a 39141
recreational vehicle or portable camping unit is or is to be 39142
located, the owner of the recreational vehicle or portable camping 39143
unit and the operator of the recreational vehicle park, recreation 39144
camp, or combined park-camp shall jointly obtain the permit. Each 39145
of the persons to whom a permit is jointly issued is responsible 39146
for compliance with the provisions of the approved permit that are 39147
applicable to that person. 39148

If development for which a permit is required under division 39149
(A) or (B) of this section is to occur within a temporary 39150
park-camp on a site where a recreational vehicle or portable 39151
camping unit is or is to be located, the owner of the temporary 39152
park-camp shall obtain the permit. 39153

(D) Fees established by a municipal corporation or county for 39154
the issuance of permits under division (A) or (B) of this section 39155

are not subject to regulation by the ~~public director of health~~ health
council. 39156
39157

Sec. 3729.07. The licensor of a recreational vehicle park, 39158
recreation camp, or combined park-camp may charge a fee for an 39159
annual license to operate such a park, camp, or park-camp. In the 39160
case of a temporary park-camp, the licensor may charge a fee for a 39161
license to operate the temporary park-camp for the period 39162
specified in division (A) of section 3729.05 of the Revised Code. 39163
The fees for both types of licenses shall be determined in 39164
accordance with section 3709.09 of the Revised Code and shall 39165
include the cost of licensing and all inspections. 39166

Except for the fee for a temporary park-camp license, the fee 39167
also shall include any additional amount determined by rule of the 39168
~~public director of health council~~, which shall be collected and 39169
transmitted by the board of health to the director ~~of health~~ 39170
pursuant to section 3709.092 of the Revised Code and used only for 39171
the purpose of administering and enforcing this chapter and rules 39172
adopted under it. The portion of any fee retained by the board of 39173
health shall be paid into a special fund and used only for the 39174
purpose of administering and enforcing this chapter and rules 39175
adopted under it. 39176

Sec. 3729.08. The licensor of the health district in which a 39177
recreational vehicle park, recreation camp, combined park-camp, or 39178
temporary park-camp is or is to be located, in accordance with 39179
Chapter 119. of the Revised Code, may refuse to grant, may 39180
suspend, or may revoke any license granted to any person for 39181
failure to comply with this chapter or with any rule adopted by 39182
the ~~public director of health council~~ under section 3729.02 of the 39183
Revised Code. 39184

Sec. 3730.10. (A) ~~Not later than ninety days after the~~ 39185

~~effective date of this section, the public~~ The director of health 39186
~~council~~ shall adopt rules in accordance with Chapter 119. of the 39187
Revised Code as necessary for the implementation and enforcement 39188
of this chapter. The rules shall include all of the following: 39189

(1) Safety and sanitation standards and procedures to be 39190
followed to prevent the transmission of infectious diseases during 39191
the performance of tattooing and body piercing procedures; 39192

(2) Standards and procedures to be followed for appropriate 39193
disinfection and sterilization of all invasive equipment or parts 39194
of equipment used in tattooing procedures, body piercing 39195
procedures, and ear piercing procedures performed with an ear 39196
piercing gun; 39197

(3) Procedures for suspending and revoking approvals under 39198
section 3730.05 of the Revised Code. 39199

(B) The rules adopted under division (A)(1) of this section 39200
shall establish universal blood and body fluid precautions to be 39201
used by any individual who performs tattooing or body piercing 39202
procedures. The precautions shall include all of the following: 39203

(1) The appropriate use of hand washing; 39204

(2) The handling and disposal of all needles and other sharp 39205
instruments used in tattooing or body piercing procedures; 39206

(3) The wearing and disposal of gloves and other protective 39207
garments and devices. 39208

(C) The rules adopted under division (A) of this section may 39209
include standards and procedures to be followed by a business that 39210
offers tattooing or body piercing services to ensure that the 39211
individuals who perform tattooing or body piercing procedures for 39212
the business are adequately trained to perform the procedures 39213
properly. 39214

Sec. 3733.41. As used in sections 3733.41 to 3733.49 of the 39215

Revised Code: 39216

(A) "Agricultural labor camp" means one or more buildings or 39217
structures, trailers, tents, or vehicles, together with any land 39218
appertaining thereto, established, operated, or used as temporary 39219
living quarters for two or more families or five or more persons 39220
intending to engage in or engaged in agriculture or related food 39221
processing, whether occupancy is by rent, lease, or mutual 39222
agreement. "Agricultural labor camp" does not include a hotel or 39223
motel, or a manufactured home park regulated pursuant to ~~section~~ 39224
~~3733.01~~ sections 4781.26 to 4781.52 of the Revised Code, and rules 39225
adopted thereunder. 39226

(B) "Board of health" means the board of health of a city or 39227
general health district or the authority having the duties of a 39228
board of health in any city as authorized by section 3709.05 of 39229
the Revised Code or an authorized representative of the board of 39230
health. 39231

(C) "Director" means the director of ~~the department of~~ health 39232
or the authorized representative of the director of health. 39233

(D) "Licensor" means the director of health. 39234

(E) "Person" means the state, any political subdivision, 39235
public or private corporation, partnership, association, trust, 39236
individual, or other entity. 39237

~~(F) "Public health council" means the public health council~~ 39238
~~as created by section 3701.33 of the Revised Code.~~ 39239

Sec. 3733.42. The public director of health council, subject 39240
to sections 119.01 to 119.13 of the Revised Code, shall adopt 39241
rules having a uniform application throughout the state, governing 39242
the issuance of licenses, location, layout, construction, approval 39243
of plans, sanitation, safety, operation, use, and maintenance of 39244
agricultural labor camps. The rules shall establish minimum 39245

standards of habitability with which a licensee shall comply in 39246
operating an agricultural labor camp. The rules shall establish, 39247
beyond minimum standards of habitability, additional standards of 39248
habitability for those camps and shall establish priorities for 39249
those additional standards with which a licensee may ~~voluntary~~ 39250
voluntarily comply. 39251

In addition to meeting the requirements of section 119.03 of 39252
the Revised Code, the director of health shall mail a notice of 39253
the date, time, and place of any hearing on the adoption, 39254
amendment, or rescission of such rules and the full text of the 39255
proposed rule, amendment, or rule to be rescinded, at least thirty 39256
days prior to the hearing date, to all persons currently 39257
authorized or licensed to operate camps by the department of 39258
health, or authorized or licensed to operate camps in the previous 39259
calendar year. 39260

Sec. 3734.01. As used in this chapter: 39261

(A) "Board of health" means the board of health of a city or 39262
general health district or the authority having the duties of a 39263
board of health in any city as authorized by section 3709.05 of 39264
the Revised Code. 39265

(B) "Director" means the director of environmental 39266
protection. 39267

(C) "Health district" means a city or general health district 39268
as created by or under authority of Chapter 3709. of the Revised 39269
Code. 39270

(D) "Agency" means the environmental protection agency. 39271

(E) "Solid wastes" means such unwanted residual solid or 39272
semisolid material as results from industrial, commercial, 39273
agricultural, and community operations, excluding earth or 39274
material from construction, mining, or demolition operations, or 39275

other waste materials of the type that normally would be included 39276
in demolition debris, nontoxic fly ash and bottom ash, including 39277
at least ash that results from the combustion of coal and ash that 39278
results from the combustion of coal in combination with scrap 39279
tires where scrap tires comprise not more than fifty per cent of 39280
heat input in any month, spent nontoxic foundry sand, and slag and 39281
other substances that are not harmful or inimical to public 39282
health, and includes, but is not limited to, garbage, scrap tires, 39283
combustible and noncombustible material, street dirt, and debris. 39284
"Solid wastes" does not include any material that is an infectious 39285
waste or a hazardous waste. 39286

(F) "Disposal" means the discharge, deposit, injection, 39287
dumping, spilling, leaking, emitting, or placing of any solid 39288
wastes or hazardous waste into or on any land or ground or surface 39289
water or into the air, except if the disposition or placement 39290
constitutes storage or treatment or, if the solid wastes consist 39291
of scrap tires, the disposition or placement constitutes a 39292
beneficial use or occurs at a scrap tire recovery facility 39293
licensed under section 3734.81 of the Revised Code. 39294

(G) "Person" includes the state, any political subdivision 39295
and other state or local body, the United States and any agency or 39296
instrumentality thereof, and any legal entity defined as a person 39297
under section 1.59 of the Revised Code. 39298

(H) "Open burning" means the burning of solid wastes in an 39299
open area or burning of solid wastes in a type of chamber or 39300
vessel that is not approved or authorized in rules adopted by the 39301
director under section 3734.02 of the Revised Code or, if the 39302
solid wastes consist of scrap tires, in rules adopted under 39303
division (V) of this section or section 3734.73 of the Revised 39304
Code, or the burning of treated or untreated infectious wastes in 39305
an open area or in a type of chamber or vessel that is not 39306
approved in rules adopted by the director under section 3734.021 39307

of the Revised Code. 39308

(I) "Open dumping" means the depositing of solid wastes into 39309
a body or stream of water or onto the surface of the ground at a 39310
site that is not licensed as a solid waste facility under section 39311
3734.05 of the Revised Code or, if the solid wastes consist of 39312
scrap tires, as a scrap tire collection, storage, monocell, 39313
monofill, or recovery facility under section 3734.81 of the 39314
Revised Code; the depositing of solid wastes that consist of scrap 39315
tires onto the surface of the ground at a site or in a manner not 39316
specifically identified in divisions (C)(2) to (5), (7), or (10) 39317
of section 3734.85 of the Revised Code; the depositing of 39318
untreated infectious wastes into a body or stream of water or onto 39319
the surface of the ground; or the depositing of treated infectious 39320
wastes into a body or stream of water or onto the surface of the 39321
ground at a site that is not licensed as a solid waste facility 39322
under section 3734.05 of the Revised Code. 39323

(J) "Hazardous waste" means any waste or combination of 39324
wastes in solid, liquid, semisolid, or contained gaseous form that 39325
in the determination of the director, because of its quantity, 39326
concentration, or physical or chemical characteristics, may do 39327
either of the following: 39328

(1) Cause or significantly contribute to an increase in 39329
mortality or an increase in serious irreversible or incapacitating 39330
reversible illness; 39331

(2) Pose a substantial present or potential hazard to human 39332
health or safety or to the environment when improperly stored, 39333
treated, transported, disposed of, or otherwise managed. 39334

"Hazardous waste" includes any substance identified by 39335
regulation as hazardous waste under the "Resource Conservation and 39336
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 39337
amended, and does not include any substance that is subject to the 39338

"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 39339
amended. 39340

(K) "Treat" or "treatment," when used in connection with 39341
hazardous waste, means any method, technique, or process designed 39342
to change the physical, chemical, or biological characteristics or 39343
composition of any hazardous waste; to neutralize the waste; to 39344
recover energy or material resources from the waste; to render the 39345
waste nonhazardous or less hazardous, safer to transport, store, 39346
or dispose of, or amenable for recovery, storage, further 39347
treatment, or disposal; or to reduce the volume of the waste. When 39348
used in connection with infectious wastes, "treat" or "treatment" 39349
means any method, technique, or process designed to render the 39350
wastes noninfectious, including, without limitation, steam 39351
sterilization and incineration, or, in the instance of wastes 39352
identified in division (R)(7) of this section, to substantially 39353
reduce or eliminate the potential for the wastes to cause 39354
lacerations or puncture wounds. 39355

(L) "Manifest" means the form used for identifying the 39356
quantity, composition, origin, routing, and destination of 39357
hazardous waste during its transportation from the point of 39358
generation to the point of disposal, treatment, or storage. 39359

(M) "Storage," when used in connection with hazardous waste, 39360
means the holding of hazardous waste for a temporary period in 39361
such a manner that it remains retrievable and substantially 39362
unchanged physically and chemically and, at the end of the period, 39363
is treated; disposed of; stored elsewhere; or reused, recycled, or 39364
reclaimed in a beneficial manner. When used in connection with 39365
solid wastes that consist of scrap tires, "storage" means the 39366
holding of scrap tires for a temporary period in such a manner 39367
that they remain retrievable and, at the end of that period, are 39368
beneficially used; stored elsewhere; placed in a scrap tire 39369
monocell or monofill facility licensed under section 3734.81 of 39370

the Revised Code; processed at a scrap tire recovery facility 39371
licensed under that section or a solid waste incineration or 39372
energy recovery facility subject to regulation under this chapter; 39373
or transported to a scrap tire monocell, monofill, or recovery 39374
facility, any other solid waste facility authorized to dispose of 39375
scrap tires, or a facility that will beneficially use the scrap 39376
tires, that is located in another state and is operating in 39377
compliance with the laws of the state in which the facility is 39378
located. 39379

(N) "Facility" means any site, location, tract of land, 39380
installation, or building used for incineration, composting, 39381
sanitary landfilling, or other methods of disposal of solid wastes 39382
or, if the solid wastes consist of scrap tires, for the 39383
collection, storage, or processing of the solid wastes; for the 39384
transfer of solid wastes; for the treatment of infectious wastes; 39385
or for the storage, treatment, or disposal of hazardous waste. 39386

(O) "Closure" means the time at which a hazardous waste 39387
facility will no longer accept hazardous waste for treatment, 39388
storage, or disposal, the time at which a solid waste facility 39389
will no longer accept solid wastes for transfer or disposal or, if 39390
the solid wastes consist of scrap tires, for storage or 39391
processing, or the effective date of an order revoking the permit 39392
for a hazardous waste facility or the registration certificate, 39393
permit, or license for a solid waste facility, as applicable. 39394
"Closure" includes measures performed to protect public health or 39395
safety, to prevent air or water pollution, or to make the facility 39396
suitable for other uses, if any, including, but not limited to, 39397
the removal of processing residues resulting from solid wastes 39398
that consist of scrap tires; the establishment and maintenance of 39399
a suitable cover of soil and vegetation over cells in which 39400
hazardous waste or solid wastes are buried; minimization of 39401
erosion, the infiltration of surface water into such cells, the 39402

production of leachate, and the accumulation and runoff of 39403
contaminated surface water; the final construction of facilities 39404
for the collection and treatment of leachate and contaminated 39405
surface water runoff, except as otherwise provided in this 39406
division; the final construction of air and water quality 39407
monitoring facilities, except as otherwise provided in this 39408
division; the final construction of methane gas extraction and 39409
treatment systems; or the removal and proper disposal of hazardous 39410
waste or solid wastes from a facility when necessary to protect 39411
public health or safety or to abate or prevent air or water 39412
pollution. With regard to a solid waste facility that is a scrap 39413
tire facility, "closure" includes the final construction of 39414
facilities for the collection and treatment of leachate and 39415
contaminated surface water runoff and the final construction of 39416
air and water quality monitoring facilities only if those actions 39417
are determined to be necessary. 39418

(P) "Premises" means either of the following: 39419

(1) Geographically contiguous property owned by a generator; 39420

(2) Noncontiguous property that is owned by a generator and 39421
connected by a right-of-way that the generator controls and to 39422
which the public does not have access. Two or more pieces of 39423
property that are geographically contiguous and divided by public 39424
or private right-of-way or rights-of-way are a single premises. 39425

(Q) "Post-closure" means that period of time following 39426
closure during which a hazardous waste facility is required to be 39427
monitored and maintained under this chapter and rules adopted 39428
under it, including, without limitation, operation and maintenance 39429
of methane gas extraction and treatment systems, or the period of 39430
time after closure during which a scrap tire monocell or monofill 39431
facility licensed under section 3734.81 of the Revised Code is 39432
required to be monitored and maintained under this chapter and 39433
rules adopted under it. 39434

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|--|-------|
| (R) "Infectious wastes" includes all of the following | 39435 |
| substances or categories of substances: | 39436 |
| (1) Cultures and stocks of infectious agents and associated | 39437 |
| biologicals, including, without limitation, specimen cultures, | 39438 |
| cultures and stocks of infectious agents, wastes from production | 39439 |
| of biologicals, and discarded live and attenuated vaccines; | 39440 |
| (2) Laboratory wastes that were, or are likely to have been, | 39441 |
| in contact with infectious agents that may present a substantial | 39442 |
| threat to public health if improperly managed; | 39443 |
| (3) Pathological wastes, including, without limitation, human | 39444 |
| and animal tissues, organs, and body parts, and body fluids and | 39445 |
| excreta that are contaminated with or are likely to be | 39446 |
| contaminated with infectious agents, removed or obtained during | 39447 |
| surgery or autopsy or for diagnostic evaluation, provided that, | 39448 |
| with regard to pathological wastes from animals, the animals have | 39449 |
| or are likely to have been exposed to a zoonotic or infectious | 39450 |
| agent; | 39451 |
| (4) Waste materials from the rooms of humans, or the | 39452 |
| enclosures of animals, that have been isolated because of | 39453 |
| diagnosed communicable disease that are likely to transmit | 39454 |
| infectious agents. Such waste materials from the rooms of humans | 39455 |
| do not include any wastes of patients who have been placed on | 39456 |
| blood and body fluid precautions under the universal precaution | 39457 |
| system established by the centers for disease control in the | 39458 |
| public health service of the United States department of health | 39459 |
| and human services, except to the extent specific wastes generated | 39460 |
| under the universal precautions system have been identified as | 39461 |
| infectious wastes by rules adopted under division (R)(8) of this | 39462 |
| section. | 39463 |
| (5) Human and animal blood specimens and blood products that | 39464 |
| are being disposed of, provided that, with regard to blood | 39465 |

specimens and blood products from animals, the animals were or are 39466
likely to have been exposed to a zoonotic or infectious agent. 39467
"Blood products" does not include patient care waste such as 39468
bandages or disposable gowns that are lightly soiled with blood or 39469
other body fluids unless those wastes are soiled to the extent 39470
that the generator of the wastes determines that they should be 39471
managed as infectious wastes. 39472

(6) Contaminated carcasses, body parts, and bedding of 39473
animals that were intentionally exposed to infectious agents from 39474
zoonotic or human diseases during research, production of 39475
biologicals, or testing of pharmaceuticals, and carcasses and 39476
bedding of animals otherwise infected by zoonotic or infectious 39477
agents that may present a substantial threat to public health if 39478
improperly managed; 39479

(7) Sharp wastes used in the treatment, diagnosis, or 39480
inoculation of human beings or animals or that have, or are likely 39481
to have, come in contact with infectious agents in medical, 39482
research, or industrial laboratories, including, without 39483
limitation, hypodermic needles and syringes, scalpel blades, and 39484
glass articles that have been broken; 39485

(8) Any other waste materials generated in the diagnosis, 39486
treatment, or immunization of human beings or animals, in research 39487
pertaining thereto, or in the production or testing of 39488
biologicals, that the ~~public director of health council created in~~ 39489
~~section 3701.33 of the Revised Code~~, by rules adopted in 39490
accordance with Chapter 119. of the Revised Code, identifies as 39491
infectious wastes after determining that the wastes present a 39492
substantial threat to human health when improperly managed because 39493
they are contaminated with, or are likely to be contaminated with, 39494
infectious agents. 39495

(S) "Infectious agent" means a type of microorganism, 39496
helminth, or virus that causes, or significantly contributes to 39497

the cause of, increased morbidity or mortality of human beings. 39498

(T) "Zoonotic agent" means a type of microorganism, helminth, 39499
or virus that causes disease in vertebrate animals and that is 39500
transmissible to human beings and causes or significantly 39501
contributes to the cause of increased morbidity or mortality of 39502
human beings. 39503

(U) "Solid waste transfer facility" means any site, location, 39504
tract of land, installation, or building that is used or intended 39505
to be used primarily for the purpose of transferring solid wastes 39506
that were generated off the premises of the facility from vehicles 39507
or containers into other vehicles for transportation to a solid 39508
waste disposal facility. "Solid waste transfer facility" does not 39509
include any facility that consists solely of portable containers 39510
that have an aggregate volume of fifty cubic yards or less nor any 39511
facility where legitimate recycling activities are conducted. 39512

(V) "Beneficially use" means to use a scrap tire in a manner 39513
that results in a commodity for sale or exchange or in any other 39514
manner authorized as a beneficial use in rules adopted by the 39515
director in accordance with Chapter 119. of the Revised Code. 39516

(W) "Commercial car," "commercial tractor," "farm machinery," 39517
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 39518
the same meanings as in section 4501.01 of the Revised Code. 39519

(X) "Construction equipment" means road rollers, traction 39520
engines, power shovels, power cranes, and other equipment used in 39521
construction work, or in mining or producing or processing 39522
aggregates, and not designed for or used in general highway 39523
transportation. 39524

(Y) "Motor vehicle salvage dealer" has the same meaning as in 39525
section 4738.01 of the Revised Code. 39526

(Z) "Scrap tire" means an unwanted or discarded tire. 39527

(AA) "Scrap tire collection facility" means any facility that 39528
meets all of the following qualifications: 39529

(1) The facility is used for the receipt and storage of whole 39530
scrap tires from the public prior to their transportation to a 39531
scrap tire storage, monocell, monofill, or recovery facility 39532
licensed under section 3734.81 of the Revised Code; a solid waste 39533
incineration or energy recovery facility subject to regulation 39534
under this chapter; a premises within the state where the scrap 39535
tires will be beneficially used; or a scrap tire storage, 39536
monocell, monofill, or recovery facility, any other solid waste 39537
disposal facility authorized to dispose of scrap tires, or a 39538
facility that will beneficially use the scrap tires, that is 39539
located in another state, and that is operating in compliance with 39540
the laws of the state in which the facility is located. 39541

(2) The facility exclusively stores scrap tires in portable 39542
containers. 39543

(3) The aggregate storage of the portable containers in which 39544
the scrap tires are stored does not exceed five thousand cubic 39545
feet. 39546

(BB) "Scrap tire monocell facility" means an individual site 39547
within a solid waste landfill that is used exclusively for the 39548
environmentally sound storage or disposal of whole scrap tires or 39549
scrap tires that have been shredded, chipped, or otherwise 39550
mechanically processed. 39551

(CC) "Scrap tire monofill facility" means an engineered 39552
facility used or intended to be used exclusively for the storage 39553
or disposal of scrap tires, including at least facilities for the 39554
submergence of whole scrap tires in a body of water. 39555

(DD) "Scrap tire recovery facility" means any facility, or 39556
portion thereof, for the processing of scrap tires for the purpose 39557
of extracting or producing usable products, materials, or energy 39558

from the scrap tires through a controlled combustion process, 39559
mechanical process, or chemical process. "Scrap tire recovery 39560
facility" includes any facility that uses the controlled 39561
combustion of scrap tires in a manufacturing process to produce 39562
process heat or steam or any facility that produces usable heat or 39563
electric power through the controlled combustion of scrap tires in 39564
combination with another fuel, but does not include any solid 39565
waste incineration or energy recovery facility that is designed, 39566
constructed, and used for the primary purpose of incinerating 39567
mixed municipal solid wastes and that burns scrap tires in 39568
conjunction with mixed municipal solid wastes, or any tire 39569
retreading business, tire manufacturing finishing center, or tire 39570
adjustment center having on the premises of the business a single, 39571
covered scrap tire storage area at which not more than four 39572
thousand scrap tires are stored. 39573

(EE) "Scrap tire storage facility" means any facility where 39574
whole scrap tires are stored prior to their transportation to a 39575
scrap tire monocell, monofill, or recovery facility licensed under 39576
section 3734.81 of the Revised Code; a solid waste incineration or 39577
energy recovery facility subject to regulation under this chapter; 39578
a premises within the state where the scrap tires will be 39579
beneficially used; or a scrap tire storage, monocell, monofill, or 39580
recovery facility, any other solid waste disposal facility 39581
authorized to dispose of scrap tires, or a facility that will 39582
beneficially use the scrap tires, that is located in another 39583
state, and that is operating in compliance with the laws of the 39584
state in which the facility is located. 39585

(FF) "Used oil" means any oil that has been refined from 39586
crude oil, or any synthetic oil, that has been used and, as a 39587
result of that use, is contaminated by physical or chemical 39588
impurities. "Used oil" includes only those substances identified 39589
as used oil by the United States environmental protection agency 39590

under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 39591
U.S.C.A. 6901a, as amended. 39592

(GG) "Accumulated speculatively" has the same meaning as in 39593
rules adopted by the director under section 3734.12 of the Revised 39594
Code. 39595

Sec. 3734.131. (A)(1) Except as provided in divisions (D)(1) 39596
and (2) of this section, no person shall transport any solid 39597
wastes from outside this state to a solid waste facility in this 39598
state unless that person has first irrevocably consented in 39599
writing to the jurisdiction of the courts of this state and 39600
service of process in this state, including, without limitation, 39601
summonses and subpoenas, for any civil or criminal proceeding 39602
arising out of or relating to the wastes that are shipped to a 39603
facility in this state. 39604

(2) The original of the consent-to-jurisdiction document 39605
shall be legible and shall be filed with the director of 39606
environmental protection on a form provided by the director. A 39607
legible copy of the completed document shall be filed with the 39608
owner or operator of each solid waste facility to which the wastes 39609
are transported. A consent-to-jurisdiction document applies only 39610
to shipments into this state of wastes described in division 39611
(A)(1) of this section. 39612

(3) All consent-to-jurisdiction documents required under 39613
division (A)(1) or (3) of this section shall be refiled during the 39614
month of December, 1995, and during the month of December of every 39615
fourth year thereafter. Except as provided in division (D)(1) of 39616
this section, after December 31, 1995, or after the thirty-first 39617
day of December of every fourth year thereafter, whichever is 39618
applicable, no person shall continue to transport any solid wastes 39619
from outside this state to a solid waste facility in this state 39620
unless the person refiles with the director and the owner or 39621

operator of each facility to which the wastes are transported 39622
consent-to-jurisdiction documents, in the manner prescribed in 39623
division (A)(2) of this section, during the month of December next 39624
preceding the period for which the refiled document is required. 39625

(4) If the address of a person changes from that listed on 39626
the current consent-to-jurisdiction document filed under division 39627
(A)(1) or (3) of this section, the person shall file amended 39628
consent-to-jurisdiction documents containing the new address with 39629
the director and the owner or operator of each facility to which 39630
the wastes are transported. 39631

(5)(a) Except as provided in division (D)(1) of this section, 39632
no person identified in divisions (D)(2)(a) to (d) of this section 39633
shall transport any solid wastes from outside this state to a 39634
solid waste facility in this state unless the person has first 39635
filed a notification and authorization document naming the 39636
person's agent who is authorized to accept service of process in 39637
this state, including, without limitation, summonses and 39638
subpoenas, for any civil or criminal proceeding arising out of or 39639
relating to the wastes that are shipped to a facility in this 39640
state. 39641

The original of the notification and authorization document 39642
shall be legible and shall be filed with the director on a form 39643
provided by the director. A legible copy of the completed document 39644
shall be filed with the owner or operator of each solid waste 39645
facility to which the wastes are transported. 39646

(b) All notification and authorization documents required 39647
under division (A)(5) of this section shall be refiled during the 39648
month of December, 1995, and during the month of December of every 39649
fourth year thereafter. Except as provided in division (D)(1) of 39650
this section, after December 31, 1995, or after the thirty-first 39651
day of December of every fourth year thereafter, whichever is 39652
applicable, no person identified in divisions (D)(2)(a) to (d) of 39653

this section shall continue to transport any solid wastes from 39654
outside this state to a solid waste facility in this state unless 39655
the person refiles with the director and the owner or operator of 39656
each facility to which the wastes are transported notification and 39657
authorization documents, in the manner prescribed in division 39658
(A)(5)(a) of this section, during the month of December next 39659
preceding the period for which the refiled document is required. 39660

(c) If a person's agent or the address of a person's agent 39661
changes from that listed on the current notification and 39662
authorization document filed under division (A)(5)(a) or (b) of 39663
this section, the person shall file amended notification and 39664
authorization documents containing the name and address of the new 39665
agent or the agent's new address with the director and the owner 39666
or operator of each facility to which the wastes are transported. 39667

(B) A person who enters this state pursuant to a summons, 39668
subpoena, or other form of process authorized by this section is 39669
not subject to arrest or the service of process, whether civil or 39670
criminal, in connection with other matters that arose before his 39671
entrance into this state pursuant to the summons, subpoena, or 39672
other form of process authorized by this section. 39673

(C)(1) Except as provided in division (D)(1) of this section, 39674
no owner, operator, or employee of a solid waste facility shall 39675
accept for treatment, transfer, storage, or disposal at the 39676
facility any solid wastes from outside the boundaries of this 39677
state unless the facility has received a copy of the 39678
consent-to-jurisdiction document or notification and authorization 39679
document required under this section and applicable to the wastes. 39680

(2) The owner or operator of a solid waste facility shall 39681
keep the consent-to-jurisdiction documents and the notification 39682
and authorization documents filed with him under this section at 39683
the facility in such a location and manner that they are readily 39684
accessible to the director or his authorized representative, and 39685

the board of health having jurisdiction over the facility and its 39686
authorized representative, for the purposes of sections 3734.07 39687
and 3734.10 of the Revised Code. 39688

(D)(1) Divisions (A), (B), and (C) of this section do not 39689
apply to the transportation, transfer, or disposal of solid wastes 39690
from residential premises located less than ten miles outside the 39691
boundaries of this state. 39692

(2) Divisions (A)(1) to (4) of this section do not apply to 39693
any of the following: 39694

(a) A corporation incorporated under the laws of this state 39695
that has appointed a statutory agent pursuant to section 1701.07 39696
of the Revised Code; 39697

(b) A foreign corporation licensed to transact business in 39698
this state that has appointed a designated agent pursuant to 39699
section 1703.041 of the Revised Code; 39700

(c) A ~~nonresident~~ motor carrier ~~that has designated an agent~~ 39701
~~pursuant to, as defined in~~ section ~~4919.77~~ 4923.01 of the Revised 39702
Code, that is a nonresident; 39703

(d) Any other person who is a resident of this state. 39704

Sec. 3734.15. (A) No person shall transport hazardous waste 39705
anywhere in this state unless ~~he~~ the person has first registered 39706
with and obtained a uniform permit from the public utilities 39707
commission in accordance with ~~section 4905.80~~ Chapter 4921. of the 39708
Revised Code. 39709

For the purposes of this section, "registered transporter" 39710
means any person who is registered with and has received a uniform 39711
permit from the public utilities commission pursuant to ~~section~~ 39712
~~4905.80~~ Chapter 4921. of the Revised Code. 39713

(B) A registered transporter of hazardous waste shall be 39714
responsible for the safe delivery of any hazardous waste that ~~he~~ 39715

the registered transporter transports from such time as ~~he~~ the 39716
registered transporter obtains the waste until ~~he~~ the registered 39717
transporter delivers it to a treatment, storage, or disposal 39718
facility specified in division (F) of section 3734.02 of the 39719
Revised Code, as recorded on the manifest required in division (B) 39720
of section 3734.12 of the Revised Code. Any registered transporter 39721
who violates this chapter or any rule adopted under the chapter 39722
while transporting hazardous waste shall be liable for any damage 39723
or injury caused by the violation and for the costs of rectifying 39724
the violation and conditions caused by the violation. 39725

(C) No person who generates hazardous waste shall cause the 39726
waste to be transported by any person who is not a registered 39727
transporter. No person shall accept for treatment, storage, or 39728
disposal any hazardous waste from an unregistered transporter. Any 39729
person who is requested to accept such waste for treatment, 39730
storage, or disposal shall notify the director, the board of 39731
health in ~~his~~ the person's location, and the public utilities 39732
commission of the request. 39733

If a generator causes an unregistered transporter to 39734
transport the hazardous waste, the generator of the waste, the 39735
transporter, and any person who accepts the waste for treatment, 39736
storage, or disposal shall be jointly and severally liable for any 39737
damage or injury caused by the handling of the waste and for the 39738
costs of rectifying their violation and conditions caused by their 39739
violation. 39740

Sec. 3734.51. There is hereby created within the 39741
environmental protection agency the solid waste management 39742
advisory council consisting of the directors of environmental 39743
protection, and development, ~~and natural resources~~, or their 39744
designees, as members ex officio, one member of the senate to be 39745
appointed by the president of the senate, one member of the house 39746

of representatives to be appointed by the speaker of the house of 39747
representatives, and fourteen members to be appointed by the 39748
governor with the advice and consent of the senate. Of the 39749
appointed members, one shall be an employee of a health district 39750
whose duties include enforcement of the solid waste provisions of 39751
this chapter, two shall represent the interests of counties, two 39752
shall represent the interests of municipal corporations, two shall 39753
represent the interests of townships, one shall represent the 39754
interests of county solid waste management districts, one shall 39755
represent the interests of joint solid waste management districts, 39756
one shall represent the interests of industrial generators of 39757
solid wastes, one shall be from the private recycling industry, 39758
one shall be from the private solid waste management industry, one 39759
shall be from a statewide environmental advocacy organization, and 39760
one shall represent the public. ~~Within ninety days after June 24,~~ 39761
~~1988, the governor shall make the initial appointments to the~~ 39762
~~advisory council. Of those initial appointments, six shall be for~~ 39763
~~a term ending June 24, 1989, and six shall be for a term ending~~ 39764
~~June 24, 1990. The governor shall make the initial appointments to~~ 39765
~~the advisory council of the members representing county and joint~~ 39766
~~solid waste management districts within ninety days after the~~ 39767
~~effective date of this amendment. Of the initial appointments of~~ 39768
~~the members representing solid waste management districts, one~~ 39769
~~shall be for a term ending June 24, 1993, and one shall be for a~~ 39770
~~term ending June 24, 1994. Thereafter, terms~~ Terms of office shall 39771
be for two years with each term ending on the same day of the same 39772
month as did the term that it succeeds. Each member shall hold 39773
office from the date of ~~his~~ appointment until the end of the term 39774
for which ~~he~~ the member was appointed. Members may be reappointed. 39775
Vacancies shall be filled in the manner provided for original 39776
appointments. Any member appointed to fill a vacancy occurring 39777
prior to the expiration of the term for which ~~his~~ the member's 39778
predecessor was appointed shall hold office for the remainder of 39779

that term. A member shall continue in office subsequent to the 39780
expiration of ~~his~~ the member's term or until a period of sixty 39781
days has elapsed, whichever occurs first. 39782

The advisory council shall hold at least four regular 39783
quarterly meetings each year. Special meetings may be held at the 39784
behest of the ~~chairman~~ chairperson or a majority of the members. 39785
The director of environmental protection shall serve as ~~chairman~~ 39786
chairperson of the advisory council. The advisory council annually 39787
shall select from among its members a vice-~~chairman~~ chairperson 39788
and a secretary to keep a record of its proceedings. A majority 39789
vote of the members of the advisory council is necessary to take 39790
action on any matter. 39791

Serving as an appointed member of the advisory council does 39792
not constitute holding a public office or position of employment 39793
under the laws of this state and does not constitute grounds for 39794
removal of public officers or employees from their offices or 39795
positions of employment. The governor may remove an appointed 39796
member of the advisory council at any time for misfeasance, 39797
nonfeasance, or malfeasance in office. 39798

Appointed members of the advisory council shall serve without 39799
compensation for attending council meetings. Members of the 39800
advisory council shall be reimbursed for their actual and 39801
necessary expenses incurred in the performance of their duties as 39802
members of the council from moneys appropriated to the 39803
environmental protection agency for administration and enforcement 39804
of the solid waste provisions of this chapter. 39805

The advisory council shall do all of the following: 39806

(A) Advise and assist the director of environmental 39807
protection with preparation of the state solid waste management 39808
plan and periodic revisions to the plan under section 3734.50 of 39809
the Revised Code; 39810

(B) Approve or disapprove the draft state solid waste management plan and periodic revisions prior to adoption of the plan under section 3734.50 of the Revised Code;

(C) Annually review implementation of the state solid waste management plan and the solid waste management plans of county and joint solid waste management districts approved or ordered to be implemented under section 3734.521 or 3734.55 of the Revised Code or amendments to those plans approved or ordered to be implemented under section 3734.521 or 3734.56 of the Revised Code, and report its findings to the director.

Sec. 3734.55. (A) Upon completion of its draft solid waste management plan under section 3734.54 of the Revised Code, the solid waste management policy committee of a county or joint solid waste management district shall send a copy of the draft plan to the director of environmental protection for preliminary review and comment. Within forty-five days after receiving the draft plan, the director shall provide the committee with a written, nonbinding advisory opinion regarding the draft plan and any recommended changes to it that the director considers necessary to effect its approval. After receipt of the director's written opinion, the committee may make such revisions to the draft plan based on the director's opinion as it considers appropriate. Upon receipt of the director's opinion and after making any such revisions to the draft plan, the committee shall prepare and publish in at least one newspaper of general circulation within the county or joint district a public notice that describes the draft plan, specifies the location where it is available for review, and establishes a period of thirty days for comments concerning the draft plan. The committee shall send written notice of the draft plan to adjacent county and joint districts and shall make it available for review by those districts, by the board of county commissioners of each county forming the district, by all

municipal corporations and townships within the county or joint 39843
district, and by the public. The committee also shall send written 39844
notice of the plan to the director and to the fifty industrial, 39845
commercial, or institutional generators of solid wastes within the 39846
district that generate the largest quantities of solid wastes, as 39847
determined by the board, and their local trade associations. The 39848
board shall make good faith efforts to identify those generators 39849
within the district and their local trade associations, but the 39850
nonprovision of notice under this division to a particular 39851
industrial, commercial, or institutional generator or local trade 39852
association does not invalidate the proceedings under this 39853
section. All such written notices shall include the date, time, 39854
and location of the public hearing; the dates when the comment 39855
period begins and ends; and a description of the plan that 39856
includes, without limitation, the proposed amount of the fees to 39857
be levied under the plan pursuant to division (B) of section 39858
3734.57 or division (A) of section 3734.573 of the Revised Code, 39859
if any, and an indication as to whether the provision required to 39860
be included in the plan under division (E)(1) of section 3734.53 39861
of the Revised Code authorizes the board of county commissioners 39862
or directors of the district to establish, or precludes the board 39863
from establishing, facility designations under section 343.014 of 39864
the Revised Code. Within fifteen days after expiration of the 39865
comment period, the committee shall conduct a public hearing 39866
concerning the draft plan and, at least fifteen days before the 39867
hearing, shall publish in at least one newspaper of general 39868
circulation within the county or joint district a notice 39869
containing the time and place of the hearing and the location 39870
where the draft plan is available for review. 39871

(B) After the public hearing, the committee may modify the 39872
draft plan based upon the public's comments and shall adopt or 39873
reject it by a majority vote. Within thirty days after adoption of 39874
the draft plan, the committee shall deliver a copy of it to the 39875

board of county commissioners of each county forming the district 39876
and to the legislative authority of each municipal corporation and 39877
township under the jurisdiction of the district. Within ninety 39878
days after receiving a copy of the draft plan adopted by the 39879
committee, each such board and legislative authority shall approve 39880
or disapprove the draft plan, by ordinance or resolution, and 39881
deliver a copy of the ordinance or resolution to the committee. 39882

The solid waste management policy committee of a county 39883
district or a joint district formed by two or three counties shall 39884
declare the draft plan to be ratified as the solid waste 39885
management plan of the district upon determining that the board of 39886
county commissioners of each county forming the district has 39887
approved the draft plan and that the legislative authorities of a 39888
combination of municipal corporations and townships with a 39889
combined population within the county or joint district comprising 39890
at least sixty per cent of the total population of the district 39891
have approved the draft plan, provided that in the case of a 39892
county district, that combination shall include the municipal 39893
corporation having the largest population within the boundaries of 39894
the district, and provided further that in the case of a joint 39895
district formed by two or three counties, that combination shall 39896
include for each county forming the joint district the municipal 39897
corporation having the largest population within the boundaries of 39898
both the county in which the municipal corporation is located and 39899
the joint district. The solid waste management policy committee of 39900
a joint district formed by four or more counties shall declare the 39901
draft plan to be ratified as the solid waste management plan of 39902
the joint district upon determining that the boards of county 39903
commissioners of a majority of the counties forming the district 39904
have approved the draft plan; that, in each of a majority of the 39905
counties forming the joint district, the draft plan has been 39906
approved by the municipal corporation having the largest 39907
population within the county and the joint district; and that the 39908

legislative authorities of a combination of municipal corporations 39909
and townships with a combined population within the joint district 39910
comprising at least sixty per cent of the total population of the 39911
joint district have approved the draft plan. 39912

For the purposes of this division and division (C)(2) of this 39913
section, only the population of the unincorporated area of a 39914
township shall be considered. For the purpose of determining the 39915
largest municipal corporation within each county under this 39916
division and division (C)(2) of this section, a municipal 39917
corporation that is located in more than one solid waste 39918
management district, but that is under the jurisdiction of one 39919
county or joint solid waste management district in accordance with 39920
division (A) of section 3734.52 of the Revised Code shall be 39921
considered to be within the boundaries of the county in which a 39922
majority of the population of the municipal corporation resides. 39923

(C)(1) Upon ratification of the draft plan under division (B) 39924
of this section, the committee shall submit it to the director for 39925
review and approval for compliance with the requirements of 39926
divisions (A), (B), (D), and (E)(1) of section 3734.53 of the 39927
Revised Code. The director, by order, shall approve or disapprove 39928
the plan within ninety days after its submission. The director 39929
shall include with an order disapproving a plan a statement 39930
outlining the deficiencies in the plan and directing the committee 39931
to submit, within ninety days after issuance of the order, a 39932
revised plan that remedies those deficiencies, except that if the 39933
committee, by resolution, requests an extension of the time for 39934
submission of a revised plan, the director, for good cause shown, 39935
may grant one such extension for a period of not more than sixty 39936
additional days. 39937

(2) Within sixty days after issuance of the order 39938
disapproving its plan, the committee shall prepare a draft revised 39939
plan, adopt a draft revised plan by a majority vote, and deliver a 39940

copy of the draft revised plan to the board of county 39941
commissioners of each county forming the district and to the 39942
legislative authority of each municipal corporation and township 39943
under the jurisdiction of the district. Within twenty-one days 39944
after the delivery of the draft revised plan, each such board and 39945
legislative authority shall approve or disapprove the draft 39946
revised plan, by ordinance or resolution, and deliver a copy of 39947
the ordinance or resolution to the committee. In the case of a 39948
county district or a joint district formed by two or three 39949
counties, the committee shall declare the draft revised plan to be 39950
ratified as the solid waste management plan of the county or joint 39951
district upon determining that the board of county commissioners 39952
of each county forming the district has approved the draft revised 39953
plan and that the legislative authorities of a combination of 39954
municipal corporations and townships with a combined population 39955
within the district comprising at least sixty per cent of the 39956
total population of the district have approved the draft revised 39957
plan, provided that in the case of a county district, that 39958
combination shall include the municipal corporation having the 39959
largest population within the boundaries of the district, and 39960
provided further that in the case of a joint district formed by 39961
two or three counties, that combination shall include for each 39962
county forming the joint district the municipal corporation having 39963
the largest population within the boundaries of both the county in 39964
which the municipal corporation is located and the joint district. 39965
In the case of a joint district formed by four or more counties, 39966
the committee shall declare the draft revised plan to be ratified 39967
as the solid waste management plan of the joint district upon 39968
determining that the boards of county commissioners of a majority 39969
of the counties forming the district have approved the draft 39970
revised plan; that, in each of a majority of the counties forming 39971
the joint district, the draft revised plan has been approved by 39972
the municipal corporation having the largest population within the 39973

county and the joint district; and that the legislative 39974
authorities of a combination of municipal corporations and 39975
townships with a combined population within the joint district 39976
comprising at least sixty per cent of the total population of the 39977
joint district have approved the draft revised plan. Upon 39978
ratification of the draft revised plan, the committee shall submit 39979
it to the director for approval in accordance with division (C)(1) 39980
of this section. The director, by order, shall approve or 39981
disapprove the draft revised plan within thirty days after 39982
receiving it. 39983

(3) Notwithstanding section 119.06 of the Revised Code, the 39984
director may approve or disapprove a plan or revised plan 39985
submitted under division (C)(1) or (2) of this section by issuance 39986
of a final order that is effective upon issuance, without the 39987
necessity to hold any adjudication hearing in connection with the 39988
order and without issuance of a proposed action under section 39989
3745.07 of the Revised Code. In any appeal taken under section 39990
3745.04 of the Revised Code pertaining to the director's 39991
disapproval of the solid waste management plan or revised plan of 39992
a county or joint district, the solid waste management policy 39993
committee of the county or joint district and the director shall 39994
be the parties. Upon a showing by the policy committee that there 39995
is a substantial likelihood that it will prevail on the merits, 39996
the environmental review appeals commission, within thirty days 39997
after filing of the notice of appeal under that section and 39998
pending final determination of the appeal, may grant temporary 39999
relief from the director's order disapproving the district's plan, 40000
including the issuance of appropriate orders to the director to 40001
refrain from acting under division (D) of this section. 40002

(4) After approval of the plan or revised plan by the 40003
director, the board of county commissioners of a county district 40004
or board of directors of a joint district shall implement the plan 40005

in compliance with the implementation schedule contained in the 40006
approved plan. 40007

The committee annually shall review implementation of the 40008
plan approved under this section or section 3734.521 of the 40009
Revised Code and subsequent amended plans approved under section 40010
3734.521 or 3734.56 of the Revised Code and report its findings 40011
and recommendations regarding implementation of the plan to the 40012
board of county commissioners or board of directors of the 40013
district. 40014

(D) If the director finds that a county or joint solid waste 40015
management district has failed to obtain approval of its solid 40016
waste management plan within eighteen months after the applicable 40017
date prescribed for submission of its plan under division (A) of 40018
section 3734.54 of the Revised Code or within twenty-four months 40019
after that date if the date for submission was extended under that 40020
division, the director shall prepare a solid waste management plan 40021
for the county or joint district that complies with divisions (A) 40022
and (D) of section 3734.53 of the Revised Code. The plan shall not 40023
contain any of the provisions required or authorized to be 40024
included in plans submitted by districts under division (B), (C), 40025
or (E) of that section. Upon completion of the plan, the director 40026
shall issue an order in accordance with Chapter 3745. of the 40027
Revised Code directing the board of county commissioners or board 40028
of directors of the district to implement the plan in compliance 40029
with the implementation schedule contained in it. 40030

Within thirty days after the effective date of the order to 40031
implement the plan, the board of county commissioners or board of 40032
directors of the district shall determine whether the solid waste 40033
management policy committee of the district should continue to 40034
exist to monitor implementation of the plan or for the purposes of 40035
division (B) of section 3734.57 or section 3734.574 of the Revised 40036
Code. The board, by resolution, may abolish the committee if it 40037

determines that the committee is not necessary for any of those 40038
purposes. If the board of county commissioners or directors of a 40039
district that has so abolished the policy committee of the 40040
district finds that it is necessary or appropriate for the 40041
district to consider levying fees under section 3734.574 of the 40042
Revised Code, the board shall reestablish and convene the policy 40043
committee to initiate proceedings to levy the fees. If the fees 40044
are levied, the policy committee shall continue to exist for as 40045
long as the district is levying the fees. If, after a policy 40046
committee is convened to initiate proceedings to levy those fees, 40047
the fees are not levied or are abolished under section 3734.574 of 40048
the Revised Code, the board, by resolution, may abolish the 40049
committee if it determines that the committee is not necessary to 40050
monitor implementation of the plan. 40051

(E) If the director finds that the board of county 40052
commissioners or the board of directors of a district has 40053
materially failed to implement the district's plan or amended plan 40054
approved under division (C) of this section or section 3734.521 or 40055
3734.56 of the Revised Code, or prepared and ordered to be 40056
implemented under division (D) of this section or section 3734.521 40057
or 3734.56 of the Revised Code, in compliance with the 40058
implementation schedule contained in the plan or amended plan, the 40059
director shall issue an enforcement order under division (A) of 40060
section 3734.13 of the Revised Code directing the board to comply 40061
with the implementation schedule in the plan or amended plan 40062
within a specified, reasonable time. If the director finds that 40063
the board of county commissioners or directors of a district for 40064
which the provision included in the district's initial or amended 40065
plan approved under section 3734.521, 3734.55, or 3734.56 of the 40066
Revised Code pursuant to division (E)(1) or (2)(b) or (c) of 40067
section 3734.53 of the Revised Code, or an amendment to the 40068
district's approved initial or amended plan adopted and ratified 40069
under division (F) of section 3734.56 of the Revised Code, 40070

precludes the board from establishing facility designations under 40071
section 343.014 of the Revised Code has initiated proceedings to 40072
establish facility designations in violation of that section and 40073
the district's initial or amended plan, the director shall issue 40074
an enforcement order under division (A) of section 3734.13 of the 40075
Revised Code directing the board, at the board's discretion, to 40076
either abandon the proceedings or suspend them until after the 40077
board has adopted and obtained ratification of an amendment to the 40078
district's initial or amended plan under division (F) of section 40079
3734.56 of the Revised Code that authorizes the board to establish 40080
facility designations under section 343.014 of the Revised Code. 40081
If the director finds that a board of county commissioners or 40082
directors of a district for which the provision included in the 40083
district's initial or amended plan approved under section 40084
3734.521, 3734.55, or 3734.56 of the Revised Code pursuant to 40085
division (E)(1) or (2)(b) or (c) of section 3734.53 of the Revised 40086
Code, or an amendment to the district's approved initial or 40087
amended plan adopted and ratified under division (F) of section 40088
3734.56 of the Revised Code, authorizes the board to establish 40089
facility designations under section 343.014 of the Revised Code 40090
has established facility designations under section 343.014 of the 40091
Revised Code or continued facility designations under section 40092
343.015 of the Revised Code and subsequently has initiated 40093
proceedings to terminate any such facility designations in 40094
violation of section 343.014 of the Revised Code and the 40095
district's initial or amended plan, the director shall issue an 40096
enforcement order under division (A) of section 3734.13 of the 40097
Revised Code directing the board, at the board's discretion, to 40098
either abandon the proceedings or adopt and obtain ratification of 40099
an amendment to the district's initial or amended plan under 40100
division (F) of section 3734.56 of the Revised Code that precludes 40101
the board from establishing facility designations under section 40102
343.014 of the Revised Code. 40103

(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 applicable permit fee due under division ~~(G)~~(R) of section 3745.11 of the Revised Code.

(B) Division (A) of this section does not apply to an application for a permit for a scrap tire storage facility submitted under section 3734.76 of the Revised Code if the owner or operator of the facility or proposed facility is a motor

vehicle salvage dealer licensed under Chapter 4738. of the Revised Code. 40135
40136

Sec. 3734.82. (A) The annual fee for a scrap tire recovery facility license issued under section 3734.81 of the Revised Code shall be in accordance with the following schedule: 40137
40138
40139

| Daily Design | Annual | |
|----------------|---------|-------|
| Input Capacity | License | |
| (Tons) | Fee | |
| 1 or less | \$ 100 | 40143 |
| 2 to 25 | 500 | 40144 |
| 26 to 50 | 1,000 | 40145 |
| 51 to 100 | 1,500 | 40146 |
| 101 to 200 | 2,500 | 40147 |
| 201 to 500 | 3,500 | 40148 |
| 501 or more | 5,500 | 40149 |

For the purpose of determining the applicable license fee under this division, the daily design input capacity shall be the quantity of scrap tires the facility is designed to process daily as set forth in the registration certificate or permit for the facility, and any modifications to the permit, if applicable, issued under section 3734.78 of the Revised Code. 40150
40151
40152
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40155

(B) The annual fee for a scrap tire monocell or monofill facility license shall be in accordance with the following schedule: 40156
40157
40158

| Authorized Maximum | Annual | |
|---------------------|----------|-------|
| Daily Waste Receipt | License | |
| (Tons) | Fee | |
| 100 or less | \$ 5,000 | 40162 |
| 101 to 200 | 12,500 | 40163 |
| 201 to 500 | 30,000 | 40164 |
| 501 or more | 60,000 | 40165 |

For the purpose of determining the applicable license fee 40166
under this division, the authorized maximum daily waste receipt 40167
shall be the maximum amount of scrap tires the facility is 40168
authorized to receive daily that is established in the permit for 40169
the facility, and any modification to that permit, issued under 40170
section 3734.77 of the Revised Code. 40171

(C)(1) Except as otherwise provided in division (C)(2) of 40172
this section, the annual fee for a scrap tire storage facility 40173
license shall equal one thousand dollars times the number of acres 40174
on which scrap tires are to be stored at the facility during the 40175
license year, as set forth on the application for the annual 40176
license, except that the total annual license fee for any such 40177
facility shall not exceed three thousand dollars. 40178

(2) The annual fee for a scrap tire storage facility license 40179
for a storage facility that is owned or operated by a motor 40180
vehicle salvage dealer licensed under Chapter 4738. of the Revised 40181
Code is one hundred dollars. 40182

(D)(1) Except as otherwise provided in division (D)(2) of 40183
this section, the annual fee for a scrap tire collection facility 40184
license is two hundred dollars. 40185

(2) The annual fee for a scrap tire collection facility 40186
license for a collection facility that is owned or operated by a 40187
motor vehicle salvage dealer licensed under Chapter 4738. of the 40188
Revised Code is fifty dollars. 40189

(E) Except as otherwise provided in divisions (C)(2) and 40190
(D)(2) of this section, the same fees apply to private operators 40191
and to the state and its political subdivisions and shall be paid 40192
within thirty days after the issuance of a license. The fees 40193
include the cost of licensing, all inspections, and other costs 40194
associated with the administration of the scrap tire provisions of 40195
this chapter and rules adopted under them. Each license shall 40196

specify that it is conditioned upon payment of the applicable fee 40197
to the board of health or the director of environmental 40198
protection, as appropriate, within thirty days after the issuance 40199
of the license. 40200

(F) The board of health shall retain fifteen thousand dollars 40201
of each license fee collected by the board under division (B) of 40202
this section, or the entire amount of any such fee that is less 40203
than fifteen thousand dollars, and the entire amount of each 40204
license fee collected by the board under divisions (A), (C), and 40205
(D) of this section. The moneys retained shall be paid into a 40206
special fund, which is hereby created in each health district, and 40207
used solely to administer and enforce the scrap tire provisions of 40208
this chapter and rules adopted under them. The remainder, if any, 40209
of each license fee collected by the board under division (B) of 40210
this section shall be transmitted to the director within 40211
forty-five days after receipt of the fee. 40212

(G) The director shall transmit the moneys received by the 40213
director from license fees collected under division (B) of this 40214
section to the treasurer of state to be credited to the scrap tire 40215
management fund, which is hereby created in the state treasury. 40216
The fund shall consist of all federal moneys received by the 40217
environmental protection agency for the scrap tire management 40218
program; all grants, gifts, and contributions made to the director 40219
for that program; and all other moneys that may be provided by law 40220
for that program. The director shall use moneys in the fund as 40221
follows: 40222

(1) Expend amounts determined necessary by the director to 40223
implement, administer, and enforce the scrap tire provisions of 40224
this chapter and rules adopted under them; 40225

(2) During each fiscal year, request the director of budget 40226
and management to, and the director of budget and management 40227
shall, transfer one million dollars to the scrap tire grant fund 40228

created in section ~~1502.12~~ 3734.822 of the Revised Code for 40229
supporting market development activities for scrap tires and 40230
synthetic rubber from tire manufacturing processes and tire 40231
recycling processes. In addition, during a fiscal year, the 40232
director of environmental protection may request the director of 40233
budget and management to, and the director of budget and 40234
management shall, transfer up to an additional five hundred 40235
thousand dollars to the scrap tire grant fund for scrap tire 40236
amnesty events and scrap tire cleanup events. 40237

(3) After the expenditures and transfers are made under 40238
divisions (G)(1) and (2) of this section, expend the balance of 40239
the money in the scrap tire management fund remaining in each 40240
fiscal year to conduct removal actions under section 3734.85 of 40241
the Revised Code and to provide grants to boards of health under 40242
section 3734.042 of the Revised Code. 40243

Sec. ~~1502.12~~ 3734.822. (A) There is hereby created in the 40244
state treasury the scrap tire grant fund, consisting of moneys 40245
transferred to the fund under section 3734.82 of the Revised Code. 40246
~~The chief of the division of recycling and litter prevention, with~~ 40247
~~the approval of the director of natural resources, environmental~~ 40248
protection may make grants from the fund for the following 40249
purposes: 40250

(1) Supporting market development activities for scrap tires 40251
and synthetic rubber from tire manufacturing processes and tire 40252
recycling processes; 40253

(2) Supporting scrap tire amnesty and cleanup events 40254
sponsored by solid waste management districts. 40255

Grants awarded under division (A)(1) of this section may be 40256
awarded to individuals, businesses, and entities certified under 40257
division (A) of section ~~1502.04~~ 3736.04 of the Revised Code. 40258

(B) Projects and activities that are eligible for grants 40259
under division (A)(1) of this section shall be evaluated for 40260
funding using, at a minimum, the following criteria: 40261

(1) The degree to which a proposed project contributes to the 40262
increased use of scrap tires generated in this state; 40263

(2) The degree of local financial support for a proposed 40264
project; 40265

(3) The technical merit and quality of a proposed project. 40266

Sec. 3735.37. A metropolitan housing authority shall keep an 40267
accurate account of all its activities and of all receipts and 40268
expenditures and make an annual report ~~thereof to the director of~~ 40269
~~development~~ of these publicly available. All moneys received in 40270
excess of operating expenditures shall be devoted to the payment 40271
of interest and sinking fund charges for the retirement of 40272
indebtedness, whether secured by mortgage or otherwise, and from 40273
the excess there shall be set aside such fund as the authority 40274
deems proper for the purpose of covering repairs, depreciation, 40275
and reserves. Whatever balance then remains shall be applied to 40276
the reduction of rentals thereafter falling due. 40277

Sec. ~~1502.01~~ 3736.01. As used in this chapter: 40278

(A) "Litter" means garbage, trash, waste, rubbish, ashes, 40279
cans, bottles, wire, paper, cartons, boxes, automobile parts, 40280
furniture, glass, or anything else of an unsightly or unsanitary 40281
nature thrown, dropped, discarded, placed, or deposited by a 40282
person on public property, on private property not owned by the 40283
person, or in or on waters of the state unless one of the 40284
following applies: 40285

(1) The person has been directed to do so by a public 40286
official as part of a litter collection drive. 40287

(2) The person has thrown, dropped, discarded, placed, or deposited the material in a receptacle in a manner that prevented its being carried away by the elements.

(3) The person has been issued a permit or license covering the material pursuant to Chapter 3734. or 6111. of the Revised Code.

(B) "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of recovering and reusing the materials.

(C) "Agency of the state" includes, but is not limited to, an "agency" subject to Chapter 119. of the Revised Code and a "state university or college" as defined in section 3345.12 of the Revised Code.

(D) "Source reduction" means activities that decrease the initial production of waste materials at their point of origin.

(E) "Enterprise" means a business with its principal place of business in this state and that proposes to engage in research and development or recycling in this state.

(F) "Research and development" means inquiry, experimentation, or demonstration to advance basic scientific or technical knowledge or the application, adaptation, or use of existing or newly discovered scientific or technical knowledge regarding recycling, source reduction, or litter prevention.

(G) "Recyclables" means waste materials that are collected, separated, or processed and used as raw materials or products.

(H) "Recycling market development" means activities that stimulate the demand for recycled products, provide for a consistent supply of recyclables to meet the needs of recycling industries, or both.

(I) "Solid waste management districts" means solid waste

management districts established under Chapter 343. of the Revised Code. 40318
40319

(J) "Synthetic rubber" means produced or extended rubber and products made from a synthetic rubber base material originating from petrochemical feedstocks, including scrap tires, tire molds, automobile engine belts, brake pads and hoses, weather stripping, fittings, electrical insulation, and other molded objects and parts. 40320
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Sec. ~~1502.03~~ 3736.02. (A) The ~~chief director~~ of the ~~division of recycling and litter prevention~~ environmental protection shall establish and implement statewide source reduction, recycling, recycling market development, and litter prevention programs that are consistent with the state solid waste management plan adopted under section 3734.50 of the Revised Code. The programs shall include all of the following: 40326
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(1) The assessment of waste generation within the state and implementation of source reduction practices; 40333
40334

(2) The implementation of recycling and recycling market development activities and projects, including all of the following: 40335
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40337

(a) Collection of recyclables; 40338

(b) Separation of recyclables; 40339

(c) Processing of recyclables; 40340

(d) Facilitation and encouragement of the use of recyclables and products made with recyclables; 40341
40342

(e) Education and training concerning recycling and products manufactured with recyclables; 40343
40344

(f) Public awareness campaigns to promote recycling; 40345

(g) Other activities and projects that promote recycling and 40346

recycling market development. 40347

(3) Litter prevention assistance to enforce antilitter laws, 40348
educate the public, and stimulate collection and containment of 40349
litter; 40350

(4) Research and development regarding source reduction, 40351
recycling, and litter prevention, including, without limitation, 40352
research and development regarding materials or products 40353
manufactured with recyclables. 40354

(B) ~~The chief, with the approval of the director of natural~~ 40355
~~resources,~~ may enter into contracts or other agreements and may 40356
execute any instruments necessary or incidental to the discharge 40357
of the ~~chief's~~ director's responsibilities under this chapter. 40358

Sec. ~~1502.02~~ 3736.03. (A) ~~There is hereby created in the~~ 40359
~~department of natural resources the division of recycling and~~ 40360
~~litter prevention to be headed by the chief of recycling and~~ 40361
~~litter prevention.~~ 40362

~~(B)~~ There is hereby created in the state treasury the 40363
recycling and litter prevention fund, consisting of moneys 40364
distributed to it from fees, including the fee levied under 40365
division (A)(2) of section 3714.073 of the Revised Code, gifts, 40366
donations, grants, reimbursements, and other sources, including 40367
investment earnings. 40368

~~(C)~~(B) The ~~chief~~ director of ~~recycling and litter prevention~~ 40369
environmental protection shall do all of the following: 40370

(1) Use moneys credited to the fund exclusively for the 40371
purposes set forth in sections ~~1502.03~~ 3736.02, ~~1502.04~~ 3736.04, 40372
3736.05, and ~~1502.05~~ 3745.014 of the Revised Code, with particular 40373
emphasis on programs relating to recycling; 40374

(2) ~~Expend for administration of the division not more than~~ 40375
~~ten per cent of any fiscal year's appropriation to the division,~~ 40376

~~excluding the amount assessed to the division for direct and indirect central support charges;~~ 40377
40378

~~(3)~~ Require recipients of grants under section ~~1502.05~~ 3736.05 of the Revised Code, as a condition of receiving and retaining them, to do all of the following: 40379
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(a) Create a separate account for the grants and any cash donations received that qualify for the donor credit allowed by section 5733.064 of the Revised Code; 40382
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(b) Make expenditures from the account exclusively for the purposes for which the grants were received; 40385
40386

(c) Use any auditing and accounting practices the ~~chief~~ director considers necessary regarding the account; 40387
40388

(d) Report to the ~~chief~~ director information regarding the amount and donor of cash donations received as described by section 5733.064 of the Revised Code; 40389
40390
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(e) Use grants received to supplement and not to replace any existing funding for such purposes. 40392
40393

~~(4)~~(3) Report to the tax commissioner information the ~~chief~~ director receives pursuant to division ~~(C)~~(3)~~(B)~~(2)(d) of this section. 40394
40395
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Sec. ~~1502.04~~ 3736.04. There is hereby created within the ~~division of recycling and litter prevention~~ environmental protection agency the recycling and litter prevention advisory council consisting of thirteen members. The speaker of the house of representatives shall appoint one member of the house of representatives to the council, and the president of the senate shall appoint one member of the senate to the council. If the president of the senate belongs to the same political party as the speaker of the house of representatives, the president shall appoint a member of the senate who belongs to a different 40397
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political party as recommended by the minority leader of the 40407
senate. ~~The speaker of the house of representatives and the~~ 40408
~~president of the senate shall make their initial appointments to~~ 40409
~~the council within sixty days after July 20, 1994.~~ Each member 40410
appointed by the speaker of the house of representatives or the 40411
president of the senate shall serve for a term of office of three 40412
years. The appropriate appointing authority may fill any vacancy 40413
occurring during the term of any member whom the appointing 40414
authority has appointed to the advisory council. 40415

The remaining eleven members shall be appointed by the 40416
governor with the advice and consent of the senate and shall be 40417
persons with knowledge of or experience in recycling or litter 40418
prevention programs. The council shall have broad-based 40419
representation of interests including agriculture, labor, the 40420
environment, manufacturing, wholesale and retail industry, and the 40421
public. One of the business members shall be from the commercial 40422
recycling industry, and another shall be from an industry required 40423
to pay taxes under section 5733.065 of the Revised Code. The 40424
director of ~~natural resources~~ environmental protection shall not 40425
be a member of the council. ~~The governor shall make initial~~ 40426
~~appointments to the council within thirty days after October 20,~~ 40427
~~1987. Of the governor's initial appointments to the council, five~~ 40428
~~shall be for a term of one year, and six shall be for a term of~~ 40429
~~two years. Thereafter, terms~~ Terms of office shall be for three 40430
years. Each member appointed by the governor shall hold office 40431
from the date of the member's appointment until the end of the 40432
term for which the member was appointed. In the event of death, 40433
removal, resignation, or incapacity of a member of the council 40434
appointed by the governor, the governor, with the advice and 40435
consent of the senate, shall appoint a successor who shall hold 40436
office for the remainder of the term for which the successor's 40437
predecessor was appointed. A member shall continue in office 40438
subsequent to the expiration date of the member's term until the 40439

member's successor takes office, or until a period of sixty days 40440
has elapsed, whichever occurs first. The governor at any time may 40441
remove any of the governor's appointees from the council for 40442
misfeasance, nonfeasance, or malfeasance in office. 40443

Members of the council may be reappointed. 40444

The council shall hold at least four regular quarterly 40445
meetings each year. Special meetings may be held at the behest of 40446
the chairperson or a majority of the members. The council annually 40447
shall select from among its members a chairperson, a 40448
vice-chairperson, and a secretary to keep a record of its 40449
proceedings. 40450

A majority vote of the members of the council is necessary to 40451
take action ~~in~~ on any matter. 40452

A member of the council shall serve without compensation for 40453
attending council meetings, but shall be reimbursed for all 40454
traveling, hotel, and other ordinary and necessary expenses 40455
incurred in the performance of the member's work as a member of 40456
the council. 40457

Membership on the council does not constitute holding a 40458
public office or position of employment under the laws of this 40459
state and does not constitute grounds for removal of public 40460
officers or employees from their offices or positions of 40461
employment. 40462

The council shall do all of the following: 40463

(A) ~~In conjunction with the chief of recycling and litter~~ 40464
~~prevention and with~~ With the approval of the director of ~~natural~~ 40465
~~resources~~ environmental protection, establish criteria by which to 40466
certify, and certify, agencies of the state, municipal 40467
corporations with a population of more than fifty thousand, 40468
counties, and solid waste management districts as eligible to 40469
receive grants under section ~~1502.05~~ 3736.05 of the Revised Code; 40470

(B) ~~In conjunction with the chief and with~~ With the approval 40471
of the director, establish criteria by which to certify, and 40472
certify, political subdivisions for receipt of special grants for 40473
activities or projects that are intended to accomplish the 40474
purposes of any of the programs established under section ~~1502.03~~ 40475
3736.02 of the Revised Code; 40476

(C) Advise the ~~chief~~ director in carrying out the ~~chief's~~ 40477
director's duties under this chapter. 40478

Sec. ~~1502.05~~ 3736.05. (A) The ~~chief~~ director of ~~recycling and~~ 40479
~~litter prevention~~ environmental protection, pursuant to division 40480
(A) of section ~~1502.04~~ 3736.04 of the Revised Code ~~and with the~~ 40481
~~approval of the director of natural resources~~, may make grants 40482
from the recycling and litter prevention fund created in section 40483
~~1502.02~~ 3736.03 of the Revised Code to accomplish the purposes of 40484
the programs established under section ~~1502.03~~ 3736.02 of the 40485
Revised Code. 40486

(B) Except as provided in division (C) of this section, ~~the~~ 40487
~~chief, with the approval of the director,~~ may require any eligible 40488
applicant certified by the recycling and litter prevention 40489
advisory council under division (A) of section ~~1502.04~~ 3736.04 of 40490
the Revised Code that applies for a grant for an activity or 40491
project that is intended to further the purposes of any program 40492
established under division (A)(1), (2), or (4) of section ~~1502.03~~ 40493
3736.02 of the Revised Code to provide a matching contribution of 40494
not more than fifty per cent of the grant. 40495

(C) Notwithstanding division (B) of this section, any grant 40496
awarded under division (A) of this section to foster cooperative 40497
research and development regarding recycling or the cooperative 40498
establishment or expansion of private recycling facilities or 40499
programs shall be made in conjunction with a contribution to the 40500
project by a cooperating enterprise that maintains or proposes to 40501

maintain a relevant research and development or recycling facility 40502
or program in this state or by an agency of the state, provided 40503
that funding provided by a state agency shall not be provided from 40504
general revenue funds appropriated by the general assembly. No 40505
grant made under division (A) of this section for the purposes 40506
described in this division shall exceed the contribution made by 40507
the cooperating enterprise or state agency. The ~~chief~~ director may 40508
consider cooperating contributions in the form of state of the art 40509
new equipment or in other forms if the ~~chief~~ director determines 40510
that the contribution is essential to the successful 40511
implementation of the project. 40512

Grants made under division (A) of this section for the 40513
purposes described in this division shall be made in such form and 40514
conditioned on such terms as the ~~chief~~ director considers to be 40515
appropriate. 40516

(D)(1) The ~~chief, with the approval of the director,~~ may 40517
require any eligible applicant certified by the recycling and 40518
litter prevention advisory council under division (A) of section 40519
~~1502.04~~ 3736.04 of the Revised Code that applies for a grant that 40520
is intended to further the purposes of the program established 40521
under division (A)(3) of section ~~1502.03~~ 3736.02 of the Revised 40522
Code, except any eligible applicant that is or is located in a 40523
county that has a per capita income equal to or below ninety per 40524
cent of the median county per capita income of the state as 40525
determined by the ~~chief~~ director using the most recently available 40526
figures from the United States census bureau, to provide a 40527
matching contribution as follows: 40528

(a) Up to ten per cent of the grant from any eligible 40529
applicant that is or is located in a county that has a per capita 40530
income above ninety per cent of the median county per capita 40531
income of the state, but equal to or below one hundred per cent of 40532
the median county per capita income of the state; 40533

(b) Up to twenty per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above the median county per capita income of the state.

(2) If the eligible applicant is a joint solid waste management district or is filing a joint application on behalf of two or more counties, the matching contribution required under division (D)(1) of this section shall be the average of the matching contributions of all of the counties covered by the application as determined in accordance with that division. The matching contribution of 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 shall be included as zero in calculating the average matching contribution.

(E) ~~After receiving notice from the~~ The director of environmental protection that each county within the state is subject to the solid waste management plan of a solid waste management district, the chief shall ensure that not less than fifty per cent of the moneys distributed as grants under this section shall be expended for the purposes of recycling and recycling market development.

(F) No information that is submitted to, acquired by, or exchanged with employees of the environmental protection agency who administer or provide services under this section and that is submitted, acquired, or exchanged in order to obtain a grant pursuant to division (A) of this section shall be used in any manner for the purpose of the enforcement of any requirement established in an environmental law or used as evidence in any judicial or administrative enforcement proceeding unless that information reveals a clear and immediate danger to the environment or to the health, safety, or welfare of the public.

(G) Nothing in this section confers immunity on persons from enforcement that is based on information that is obtained by the

director or the director's authorized representatives who are not 40566
employees of the agency who administer or provide services under 40567
this section. 40568

(H) As used in this section, "environmental law" means a law 40569
that is administered by the environmental protection agency. 40570

Sec. ~~1502.06~~ 3736.06. (A) Agencies of the state certified 40571
pursuant to section ~~1502.04~~ 3736.04 of the Revised Code as 40572
eligible to receive a grant shall designate an employee as the 40573
liaison with the ~~chief~~ director of ~~recycling and litter prevention~~ 40574
environmental protection to cooperate with ~~him~~ the director in 40575
carrying out ~~his~~ the director's duties under this chapter. 40576

(B) The executive and legislative authorities of municipal 40577
corporations, counties, and townships and the boards of park 40578
commissioners of township park districts created under section 40579
511.18 of the Revised Code, boards of park commissioners of park 40580
districts created under section 1545.04 of the Revised Code, and 40581
boards of education of city, exempted village, local, and joint 40582
vocational school districts may participate in the programs 40583
established under section ~~1502.03~~ 3736.02 of the Revised Code. 40584

Sec. ~~1502.07~~ 3736.07. No person, agency of the state, 40585
municipal corporation, county, or township shall sell or offer for 40586
sale any beer or mixed beverages as defined in section 4301.01 of 40587
the Revised Code, or any soft drink as defined in section 913.22 40588
of the Revised Code, in a metal container that is so designed that 40589
it may be opened by removing from the container a part of the 40590
container without using a separate opener. However, nothing in 40591
this section prohibits the sale or offering for sale of a 40592
container the only detachable part of which is a piece of tape or 40593
other similar adhesive material. 40594

Sec. ~~1502.99~~ 3736.99. Whoever violates section ~~1502.07~~ 40595

3736.07 of the Revised Code is guilty of a minor misdemeanor. Each 40596
day of violation constitutes a separate offense. 40597

Sec. 3737.83. The fire marshal shall, as part of the state 40598
fire code, adopt rules to: 40599

(A) Establish minimum standards of performance for fire 40600
protection equipment and fire fighting equipment; 40601

(B) Establish minimum standards of training, fix minimum 40602
qualifications, and require certificates for all persons who 40603
engage in the business for profit of installing, testing, 40604
repairing, or maintaining fire protection equipment; 40605

(C) Provide for the issuance of certificates required under 40606
division (B) of this section and establish the fees to be charged 40607
for such certificates. A certificate shall be granted, renewed, or 40608
revoked according to rules the fire marshal shall adopt. 40609

(D) Establish minimum standards of flammability for consumer 40610
goods in any case where the federal government or any department 40611
or agency thereof has established, or may from time to time 40612
establish standards of flammability for consumer goods. The 40613
standards established by the fire marshal shall be identical to 40614
the minimum federal standards. 40615

In any case where the federal government or any department or 40616
agency thereof, establishes standards of flammability for consumer 40617
goods subsequent to the adoption of a flammability standard by the 40618
fire marshal, standards previously adopted by the fire marshal 40619
shall not continue in effect to the extent such standards are not 40620
identical to the minimum federal standards. 40621

With respect to the adoption of minimum standards of 40622
flammability, this division shall supersede any authority granted 40623
a political subdivision by any other section of the Revised Code. 40624

(E) Establish minimum standards pursuant to section 5104.05 40625

of the Revised Code for fire prevention and fire safety in child 40626
day-care centers and in type A family day-care homes, as defined 40627
in section 5104.01 of the Revised Code. 40628

~~(F) Establish minimum standards for fire prevention and 40629
safety an adult group home seeking licensure as an adult care 40630
facility must meet under section 5119.71 of the Revised Code. The 40631
fire marshal shall adopt the rules under this division in 40632
consultation with the directors of mental health and aging and 40633
interested parties designated by the directors of mental health 40634
and aging. 40635~~

Sec. 3737.841. As used in this section and section 3737.842 40636
of the Revised Code: 40637

(A) "Public occupancy" means all of the following: 40638

(1) Any state correctional institution as defined in section 40639
2967.01 of the Revised Code and any county, multicounty, 40640
municipal, or municipal-county jail or workhouse; 40641

(2) Any hospital as defined in section 3727.01 of the Revised 40642
Code, any hospital licensed by the department of mental health 40643
under section 5119.20 of the Revised Code, and any institution, 40644
hospital, or other place established, controlled, or supervised by 40645
the department of mental health under Chapter 5119. of the Revised 40646
Code; 40647

(3) Any nursing home, residential care facility, or home for 40648
the aging as defined in section 3721.01 of the Revised Code and 40649
any ~~adult care~~ residential facility ~~as defined in~~ licensed under 40650
section ~~5119.70~~ 5119.22 of the Revised Code that provides 40651
accommodations, supervision, and personal care services for three 40652
to sixteen unrelated adults; 40653

(4) Any child day-care center and any type A family day-care 40654
home as defined in section 5104.01 of the Revised Code; 40655

| | |
|---|---|
| (5) Any public auditorium or stadium; | 40656 |
| (6) Public assembly areas of hotels and motels containing more than ten articles of seating furniture. | 40657 40658 |
| (B) "Sell" includes sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess for sale, or dispose of in any other commercial manner. | 40659 40660 40661 |
| (C) Except as provided in division (D) of this section, "seating furniture" means any article of furniture, including children's furniture, that can be used as a support for an individual, or an individual's limbs or feet, when sitting or resting in an upright or reclining position and that either: | 40662 40663 40664 40665 40666 |
| (1) Is made with loose or attached cushions or pillows; | 40667 |
| (2) Is stuffed or filled in whole or in part with any filling material; | 40668 40669 |
| (3) Is or can be stuffed or filled in whole or in part with any substance or material, concealed by fabric or any other covering. | 40670 40671 40672 |
| "Seating furniture" includes the cushions or pillows belonging to or forming a part of the furniture, the structural unit, and the filling material and its container or covering. | 40673 40674 40675 |
| (D) "Seating furniture" does not include, except if intended for use by children or in facilities designed for the care or treatment of humans, any of the following: | 40676 40677 40678 |
| (1) Cushions or pads intended solely for outdoor use; | 40679 |
| (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; | 40680 40681 40682 40683 |
| (3) Any article manufactured solely for recreational use or physical fitness purposes, including weight-lifting benches, | 40684 40685 |

gymnasium mats or pads, and sidehorses. 40686

(E) "Filling material" means cotton, wool, kapok, feathers, 40687
down, hair, liquid, or any other natural or artificial material or 40688
substance that is used or can be used as stuffing in seating 40689
furniture. 40690

Sec. 3742.01. As used in this chapter: 40691

(A) "Board of health" means the board of health of a city or 40692
general health district or the authority having the duties of a 40693
board of health under section 3709.05 of the Revised Code. 40694

(B) "Child care facility" means each area of any of the 40695
following in which child care, as defined in section 5104.01 of 40696
the Revised Code, is provided to children under six years of age: 40697

(1) A child day-care center, type A family day-care home, or 40698
type B family day-care home as defined in section 5104.01 of the 40699
Revised Code; 40700

(2) A type C family day-care home authorized to provide child 40701
care by Sub. H.B. 62 of the 121st general assembly, as amended by 40702
Am. Sub. S.B. 160 of the 121st general assembly and Sub. H.B. 407 40703
of the 123rd general assembly; 40704

(3) A preschool program or school child program as defined in 40705
section 3301.52 of the Revised Code. 40706

(C) "Clearance examination" means an examination to determine 40707
whether the lead hazards in a residential unit, child care 40708
facility, or school have been sufficiently controlled. A clearance 40709
examination includes a visual assessment, collection, and analysis 40710
of environmental samples. 40711

(D) "Clearance technician" means a person, other than a 40712
licensed lead inspector or licensed lead risk assessor, who 40713
performs a clearance examination. 40714

(E) "Clinical laboratory" means a facility for the 40715
biological, microbiological, serological, chemical, 40716
immunohematological, hematological, biophysical, cytological, 40717
pathological, or other examination of substances derived from the 40718
human body for the purpose of providing information for the 40719
diagnosis, prevention, or treatment of any disease, or in the 40720
assessment or impairment of the health of human beings. "Clinical 40721
laboratory" does not include a facility that only collects or 40722
prepares specimens, or serves as a mailing service, and does not 40723
perform testing. 40724

(F) "Encapsulation" means the coating and sealing of surfaces 40725
with durable surface coating specifically formulated to be 40726
elastic, able to withstand sharp and blunt impacts, long-lasting, 40727
and resilient, while also resistant to cracking, peeling, algae, 40728
fungus, and ultraviolet light, so as to prevent any part of 40729
lead-containing paint from becoming part of house dust or 40730
otherwise accessible to children. 40731

(G) "Enclosure" means the resurfacing or covering of surfaces 40732
with durable materials such as wallboard or paneling, and the 40733
sealing or caulking of edges and joints, so as to prevent or 40734
control chalking, flaking, peeling, scaling, or loose 40735
lead-containing substances from becoming part of house dust or 40736
otherwise accessible to children. 40737

(H) "Environmental lead analytical laboratory" means a 40738
facility that analyzes air, dust, soil, water, paint, film, or 40739
other substances, other than substances derived from the human 40740
body, for the presence and concentration of lead. 40741

(I) "HEPA" means the designation given to a product, device, 40742
or system that has been equipped with a high-efficiency 40743
particulate air filter, which is a filter capable of removing 40744
particles of 0.3 microns or larger from air at 99.97 per cent or 40745
greater efficiency. 40746

(J) "Interim controls" means a set of measures designed to reduce temporarily human exposure or likely human exposure to lead hazards. Interim controls include specialized cleaning, repairs, painting, temporary containment, ongoing lead hazard maintenance activities, and the establishment and operation of management and resident education programs.

(K)(1) "Lead abatement" means a measure or set of measures designed for the single purpose of permanently eliminating lead hazards. "Lead abatement" includes all of the following:

- (a) Removal of lead-based paint and lead-contaminated dust;
- (b) Permanent enclosure or encapsulation of lead-based paint;
- (c) Replacement of surfaces or fixtures painted with lead-based paint;
- (d) Removal or permanent covering of lead-contaminated soil;
- (e) Preparation, cleanup, and disposal activities associated with lead abatement.

(2) "Lead abatement" does not include any of the following:

- (a) Preventive treatments performed pursuant to section 3742.41 of the Revised Code;
- (b) Implementation of interim controls;
- (c) Activities performed by a property owner on a residential unit to which both of the following apply:
 - (i) It is a freestanding single-family home used as the property owner's private residence.
 - (ii) No child under six years of age who has lead poisoning resides in the unit.

(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 40776
specifications, plans, or documents for a lead abatement project. 40777

(M) "Lead abatement project" means one or more lead abatement 40778
activities that are conducted by a lead abatement contractor and 40779
are reasonably related to each other. 40780

(N) "Lead abatement project designer" means a person who is 40781
responsible for designing lead abatement projects and preparing a 40782
pre-abatement plan for all designed projects. 40783

(O) "Lead abatement worker" means an individual who is 40784
responsible in a nonsupervisory capacity for the performance of 40785
lead abatement. 40786

(P) "Lead-based paint" means any paint or other similar 40787
surface-coating substance containing lead at or in excess of the 40788
level that is hazardous to human health, as that level is 40789
~~established by rule of the public health council in rules adopted~~ 40790
under section 3742.50 of the Revised Code. 40791

(Q) "Lead-contaminated dust" means dust that contains an area 40792
or mass concentration of lead at or in excess of the level that is 40793
hazardous to human health, as that level is established ~~by rule of~~ 40794
~~the public health council in rules adopted~~ under section 3742.50 40795
of the Revised Code. 40796

(R) "Lead-contaminated soil" means soil that contains lead at 40797
or in excess of the level that is hazardous to human health, as 40798
that level is established ~~by rule of the public health council in~~ 40799
rules adopted under section 3742.50 of the Revised Code. 40800

(S) "Lead hazard" means material that is likely to cause lead 40801
exposure and endanger an individual's health as determined by the 40802
~~public director of health council~~ in rules adopted under section 40803
3742.50 of the Revised Code. "Lead hazard" includes lead-based 40804
paint, lead-contaminated dust, lead-contaminated soil, and 40805
lead-contaminated water pipes. 40806

(T) "Lead inspection" means a surface-by-surface 40807
investigation to determine the presence of lead-based paint. The 40808
inspection shall use a sampling or testing technique approved by 40809
the ~~public health council~~ director in rules adopted ~~by the council~~ 40810
under section 3742.03 of the Revised Code. A licensed lead 40811
inspector or laboratory approved under section 3742.09 of the 40812
Revised Code shall certify in writing the precise results of the 40813
inspection. 40814

(U) "Lead inspector" means any individual who conducts a lead 40815
inspection, provides professional advice regarding a lead 40816
inspection, or prepares a report explaining the results of a lead 40817
inspection. 40818

(V) "Lead poisoning" means the level of lead in human blood 40819
that is hazardous to human health, as specified in rules adopted 40820
under section 3742.50 of the Revised Code. 40821

(W) "Lead risk assessment" means an on-site investigation to 40822
determine and report the existence, nature, severity, and location 40823
of lead hazards in a residential unit, child care facility, or 40824
school, including information gathering from the unit, facility, 40825
or school's current owner's knowledge regarding the age and 40826
painting history of the unit, facility, or school and occupancy by 40827
children under six years of age, visual inspection, limited wipe 40828
sampling or other environmental sampling techniques, and any other 40829
activity as may be appropriate. 40830

(X) "Lead risk assessor" means a person who is responsible 40831
for developing a written inspection, risk assessment, and analysis 40832
plan; conducting inspections for lead hazards in a residential 40833
unit, child care facility, or school; interpreting results of 40834
inspections and risk assessments; identifying hazard control 40835
strategies to reduce or eliminate lead exposures; and completing a 40836
risk assessment report. 40837

(Y) "Lead-safe renovation" means the supervision or 40838
performance of services for the general improvement of all or part 40839
of an existing structure, including a residential unit, child care 40840
facility, or school, when the services are supervised or performed 40841
by a lead-safe renovator. 40842

(Z) "Lead-safe renovator" means a person who has successfully 40843
completed a training program in lead-safe renovation approved 40844
under section 3742.47 of the Revised Code. 40845

(AA) "Manager" means a person, who may be the same person as 40846
the owner, responsible for the daily operation of a residential 40847
unit, child care facility, or school. 40848

(BB) "Permanent" means an expected design life of at least 40849
twenty years. 40850

(CC) "Replacement" means an activity that entails removing 40851
components such as windows, doors, and trim that have lead hazards 40852
on their surfaces and installing components free of lead hazards. 40853

(DD) "Residential unit" means a dwelling or any part of a 40854
building being used as an individual's private residence. 40855

(EE) "School" means a public or nonpublic school in which 40856
children under six years of age receive education. 40857

Sec. 3742.02. (A) No person shall do any of the following: 40858

(1) Violate any provision of this chapter or the rules 40859
adopted pursuant to it; 40860

(2) Apply or cause to be applied any lead-based paint on or 40861
inside a residential unit, child care facility, or school, unless 40862
the public director of health council ~~has~~ has determined by rule under 40863
section 3742.50 of the Revised Code that no suitable substitute 40864
exists; 40865

(3) Interfere with an investigation conducted by the director 40866

of health or a board of health in accordance with section 3742.35 40867
of the Revised Code. 40868

(B) No person shall knowingly authorize or employ an 40869
individual to perform lead abatement on a residential unit, child 40870
care facility, or school unless the individual who will perform 40871
the lead abatement holds a valid license issued under section 40872
3742.05 of the Revised Code. 40873

(C) No person shall do any of the following when a 40874
residential unit, child care facility, or school is involved: 40875

(1) Perform a lead inspection without a valid lead inspector 40876
license issued under section 3742.05 of the Revised Code; 40877

(2) Perform a lead risk assessment or provide professional 40878
advice regarding lead abatement without a valid lead risk assessor 40879
license issued under section 3742.05 of the Revised Code; 40880

(3) Act as a lead abatement contractor without a valid lead 40881
abatement contractor's license issued under section 3742.05 of the 40882
Revised Code; 40883

(4) Act as a lead abatement project designer without a valid 40884
lead abatement project designer license issued under section 40885
3742.05 of the Revised Code; 40886

(5) Perform lead abatement without a valid lead abatement 40887
worker license issued under section 3742.05 of the Revised Code; 40888

(6) Effective one year after April 7, 2003, perform a 40889
clearance examination without a valid clearance technician license 40890
issued under section 3742.05 of the Revised Code, unless the 40891
person holds a valid lead inspector license or valid lead risk 40892
assessor license issued under that section; 40893

(7) Perform lead training for the licensing purposes of this 40894
chapter without a valid approval from the director of health under 40895
section 3742.08 of the Revised Code; 40896

(8) Perform interim controls without complying with 24 C.F.R. 40897
Part 35. 40898

Sec. 3742.03. The ~~public~~ director of health council shall 40899
adopt rules in accordance with Chapter 119. of the Revised Code 40900
for the administration and enforcement of sections 3742.01 to 40901
3742.19 and 3742.99 of the Revised Code. The rules shall specify 40902
all of the following: 40903

(A) Procedures to be followed by a lead abatement contractor, 40904
lead abatement project designer, lead abatement worker, lead 40905
inspector, or lead risk assessor licensed under section 3742.05 of 40906
the Revised Code for undertaking lead abatement activities and 40907
procedures to be followed by a clearance technician, lead 40908
inspector, or lead risk assessor in performing a clearance 40909
examination; 40910

(B)(1) Requirements for training and licensure, in addition 40911
to those established under section 3742.08 of the Revised Code, to 40912
include levels of training and periodic refresher training for 40913
each class of worker, and to be used for licensure under section 40914
3742.05 of the Revised Code. Except in the case of clearance 40915
technicians, these requirements shall include at least twenty-four 40916
classroom hours of training based on the Occupational Safety and 40917
Health Act training program for lead set forth in 29 C.F.R. 40918
1926.62. For clearance technicians, the training requirements to 40919
obtain an initial license shall not exceed six hours and the 40920
requirements for refresher training shall not exceed two hours 40921
every four years. In establishing the training and licensure 40922
requirements, the ~~public health council~~ director shall consider 40923
the core of information that is needed by all licensed persons, 40924
and establish the training requirements so that persons who would 40925
seek licenses in more than one area would not have to take 40926
duplicative course work. 40927

(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;

(2) Record-keeping and reporting requirements regarding lead poisoning for physicians, in addition to the requirements of section 3701.25 of the Revised Code;

(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.

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| (F) Environmental sampling techniques for use in collecting samples of air, water, dust, paint, and other materials; | 40959 40960 |
| (G) Requirements for a respiratory protection plan prepared in accordance with section 3742.07 of the Revised Code; | 40961 40962 |
| (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. | 40963 40964 40965 40966 40967 40968 40969 40970 |
| Sec. 3742.04. (A) The director of health shall do all of the following: | 40971 40972 |
| (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; | 40973 40974 40975 |
| (2) Examine records and reports submitted by lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, lead abatement workers, and clearance technicians in accordance with section 3742.05 of the Revised Code to determine whether the requirements of this chapter are being met; | 40976 40977 40978 40979 40980 40981 |
| (3) Examine records and reports submitted by physicians, clinical laboratories, and environmental lead analytical laboratories under section 3701.25 or 3742.09 of the Revised Code; | 40982 40983 40984 |
| (4) Issue approval to manufacturers of encapsulants that have done all of the following: | 40985 40986 |
| (a) Submitted an application for approval to the director on a form prescribed by the director; | 40987 40988 |

| | |
|---|-------|
| (b) Paid the application fee established by the director; | 40989 |
| (c) Submitted results from an independent laboratory | 40990 |
| indicating that the manufacturer's encapsulants satisfy the | 40991 |
| requirements established in rules adopted under division (H) of | 40992 |
| section 3742.03 of the Revised Code; | 40993 |
| (d) Complied with rules adopted by the public health council | 40994 |
| <u>director</u> regarding durability and safety to workers and residents. | 40995 |
| (5) Establish liaisons and cooperate with the directors or | 40996 |
| agencies in states having lead abatement, licensing, | 40997 |
| accreditation, certification, and approval programs to promote | 40998 |
| consistency between the requirements of this chapter and those of | 40999 |
| other states in order to facilitate reciprocity of the programs | 41000 |
| among states; | 41001 |
| (6) Establish a program to monitor and audit the quality of | 41002 |
| work of lead inspectors, lead risk assessors, lead abatement | 41003 |
| project designers, lead abatement contractors, lead abatement | 41004 |
| workers, and clearance technicians. The director may refer | 41005 |
| improper work discovered through the program to the attorney | 41006 |
| general for appropriate action. | 41007 |
| (B) In addition to any other authority granted by this | 41008 |
| chapter, the director of health may do any of the following: | 41009 |
| (1) Employ persons who have received training from a program | 41010 |
| the director has determined provides the necessary background. The | 41011 |
| appropriate training may be obtained in a state that has an | 41012 |
| ongoing lead abatement program under which it conducts educational | 41013 |
| programs. | 41014 |
| (2) Cooperate with the United States environmental protection | 41015 |
| agency in any joint oversight procedures the agency may propose | 41016 |
| for laboratories that offer lead analysis services and are | 41017 |
| accredited under the agency's laboratory accreditation program; | 41018 |

(3) Advise, consult, cooperate with, or enter into contracts 41019
or cooperative agreements with any person, government entity, 41020
interstate agency, or the federal government as the director 41021
considers necessary to fulfill the requirements of this chapter 41022
and the rules adopted under it. 41023

Sec. 3742.05. (A)(1) The director of health shall issue lead 41024
inspector, lead abatement contractor, lead risk assessor, lead 41025
abatement project designer, lead abatement worker, and clearance 41026
technician licenses. The director shall issue a license to an 41027
applicant who meets all of the following requirements: 41028

(a) Submits an application to the director on a form 41029
prescribed by the director; 41030

(b) Meets the licensing and training requirements established 41031
~~by the public health council in rules adopted~~ under section 41032
3742.03 of the Revised Code; 41033

(c) Successfully completes the licensing examination for the 41034
applicant's area of expertise administered under section 3742.08 41035
of the Revised Code and any training required by the director 41036
under that section; 41037

(d) Pays the license fee established ~~by the public health~~ 41038
~~council in rules adopted~~ under section 3742.03 of the Revised 41039
Code; 41040

(e) Provides the applicant's social security number and any 41041
information the director may require to demonstrate the 41042
applicant's compliance with this chapter and the rules adopted 41043
under it. 41044

(2) An individual may hold more than one license issued under 41045
this section, but a separate application is required for each 41046
license. 41047

(B) A license issued under this section expires two years 41048

after the date of issuance. The director shall renew a license in 41049
accordance with the standard renewal procedure set forth in 41050
Chapter 4745. of the Revised Code, if the licensee does all of the 41051
following: 41052

(1) Continues to meet the requirements of division (A) of 41053
this section; 41054

(2) Demonstrates compliance with procedures to prevent public 41055
exposure to lead hazards and for worker protection during lead 41056
abatement projects established ~~by rule~~ in rules adopted ~~by the~~ 41057
~~public health council~~ under section 3742.03 of the Revised Code; 41058

(3) Meets the record-keeping and reporting requirements for 41059
lead abatement projects or clearance examinations established ~~by~~ 41060
~~rule~~ in rules adopted ~~by the public health council~~ under section 41061
3742.03 of the Revised Code; 41062

(4) Pays the license renewal fee established ~~by rule~~ in rules 41063
adopted ~~by the public health council~~ under section 3742.03 of the 41064
Revised Code. 41065

(C) An individual licensed, certified, or otherwise approved 41066
under the law of another state to perform functions substantially 41067
similar to those of a lead inspector, lead abatement contractor, 41068
lead risk assessor, lead abatement project designer, lead 41069
abatement worker, or clearance technician may apply to the 41070
director of health for licensure in accordance with the procedures 41071
set forth in division (A) of this section. The director shall 41072
license an individual under this division on a determination that 41073
the standards for licensure, certification, or approval in that 41074
state are at least substantially equivalent to those established 41075
by this chapter and the rules adopted under it. The director may 41076
require an examination for licensure under this division. 41077

Sec. 3742.30. Each child at risk of lead poisoning shall 41078

undergo a blood lead screening test to determine whether the child 41079
has lead poisoning. The at-risk children shall undergo the test at 41080
times determined by rules the ~~public~~ director of health ~~council~~ 41081
shall adopt in accordance with Chapter 119. of the Revised Code 41082
that are consistent with the guidelines established by the centers 41083
for disease control and prevention in the public health service of 41084
the United States department of health and human services. The 41085
rules shall specify which children are at risk of lead poisoning. 41086

Neither this section nor the rules adopted under it affect 41087
the coverage of blood lead screening tests by any publicly funded 41088
health program, including the medicaid program established by 41089
Chapter 5111. of the Revised Code. Neither this section nor the 41090
rules adopted under it apply to a child if a parent of the child 41091
objects to the test on the grounds that the test conflicts with 41092
the parent's religious tenets and practices. 41093

Sec. 3742.47. (A) A person seeking approval of a training 41094
program in either essential maintenance practices or lead-safe 41095
renovation shall apply for approval to the director of health. The 41096
application shall be made on a form prescribed by the director and 41097
shall include the fee established under division (B) of this 41098
section. The director shall issue approval to the applicant if the 41099
applicant demonstrates to the satisfaction of the director that 41100
the training program will meet the following requirements and any 41101
other training program requirements established by rules adopted 41102
under section 3742.50 of the Revised Code: 41103

(1) Conducts the training program in a period of time that 41104
does not exceed six hours; 41105

(2) Administers an examination established by rule of the 41106
~~public health council~~ director at the end of the training program 41107
to each person who completes the training; 41108

(3) Grades each examination not later than one week after its completion and determines whether the person who took the examination received a passing score;

(4) Not later than one week after the examination is completed provides written proof of training program completion to each person who completes the program and passes the examination.

(B) The director of health shall establish an application fee for approving training programs under this section. The fee shall be reasonable and shall not exceed the expenses incurred in conducting the approval of training programs. An application fee submitted under division (A) of this section is nonrefundable.

Sec. 3742.50. (A) The ~~public director of health council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

(1) Procedures necessary for the development and operation of the child lead poisoning prevention program established under section 3742.31 of the Revised Code;

(2) Standards and procedures for conducting investigations and risk assessments under sections 3742.35 and 3742.36 of the Revised Code;

(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 established by the United States environmental protection agency, United States department of housing and urban development, or any other federal agency with jurisdiction over activities pertaining to child lead poisoning prevention.

Sec. 3743.04. (A) The license of a manufacturer of fireworks is effective for one year beginning on the first day of December. The state fire marshal shall issue or renew a license only on that date and at no other time. If a manufacturer of fireworks wishes to continue manufacturing fireworks at the designated fireworks

plant after its then effective license expires, it shall apply no 41170
later than the first day of October for a new license pursuant to 41171
section 3743.02 of the Revised Code. The state fire marshal shall 41172
send a written notice of the expiration of its license to a 41173
licensed manufacturer at least three months before the expiration 41174
date. 41175

(B) If, during the effective period of its licensure, a 41176
licensed manufacturer of fireworks wishes to construct, locate, or 41177
relocate any buildings or other structures on the premises of its 41178
fireworks plant, to make any structural change or renovation in 41179
any building or other structure on the premises of its fireworks 41180
plant, or to change the nature of its manufacturing of fireworks 41181
so as to include the processing of fireworks, the manufacturer 41182
shall notify the state fire marshal in writing. The state fire 41183
marshal may require a licensed manufacturer also to submit 41184
documentation, including, but not limited to, plans covering the 41185
proposed construction, location, relocation, structural change or 41186
renovation, or change in manufacturing of fireworks, if the state 41187
fire marshal determines the documentation is necessary for 41188
evaluation purposes in light of the proposed construction, 41189
location, relocation, structural change or renovation, or change 41190
in manufacturing of fireworks. 41191

Upon receipt of the notification and additional documentation 41192
required by the state fire marshal, the state fire marshal shall 41193
inspect the premises of the fireworks plant to determine if the 41194
proposed construction, location, relocation, structural change or 41195
renovation, or change in manufacturing of fireworks conforms to 41196
sections 3743.02 to 3743.08 of the Revised Code and the rules 41197
adopted by the state fire marshal pursuant to section 3743.05 of 41198
the Revised Code. The state fire marshal shall issue a written 41199
authorization to the manufacturer for the construction, location, 41200
relocation, structural change or renovation, or change in 41201

manufacturing of fireworks if the state fire marshal determines, 41202
upon the inspection and a review of submitted documentation, that 41203
the construction, location, relocation, structural change or 41204
renovation, or change in manufacturing of fireworks conforms to 41205
those sections and rules. Upon authorizing a change in 41206
manufacturing of fireworks to include the processing of fireworks, 41207
the state fire marshal shall make notations on the manufacturer's 41208
license and in the list of licensed manufacturers in accordance 41209
with section 3743.03 of the Revised Code. 41210

On or before June 1, 1998, a licensed manufacturer shall 41211
install, in every licensed building in which fireworks are 41212
manufactured, stored, or displayed and to which the public has 41213
access, interlinked fire detection, smoke exhaust, and smoke 41214
evacuation systems that are approved by the superintendent of 41215
~~labor~~ industrial compliance, and shall comply with floor plans 41216
showing occupancy load limits and internal circulation and egress 41217
patterns that are approved by the state fire marshal and 41218
superintendent, and that are submitted under seal as required by 41219
section 3791.04 of the Revised Code. Notwithstanding section 41220
3743.59 of the Revised Code, the construction and safety 41221
requirements established in this division are not subject to any 41222
variance, waiver, or exclusion. 41223

(C) The license of a manufacturer of fireworks authorizes the 41224
manufacturer to engage only in the following activities: 41225

(1) The manufacturing of fireworks on the premises of the 41226
fireworks plant as described in the application for licensure or 41227
in the notification submitted under division (B) of this section, 41228
except that a licensed manufacturer shall not engage in the 41229
processing of fireworks unless authorized to do so by its license. 41230

(2) To possess for sale at wholesale and sell at wholesale 41231
the fireworks manufactured by the manufacturer, to persons who are 41232
licensed wholesalers of fireworks, to out-of-state residents in 41233

accordance with section 3743.44 of the Revised Code, to residents 41234
of this state in accordance with section 3743.45 of the Revised 41235
Code, or to persons located in another state provided the 41236
fireworks are shipped directly out of this state to them by the 41237
manufacturer. A person who is licensed as a manufacturer of 41238
fireworks on June 14, 1988, also may possess for sale and sell 41239
pursuant to division (C)(2) of this section fireworks other than 41240
those the person manufactures. The possession for sale shall be on 41241
the premises of the fireworks plant described in the application 41242
for licensure or in the notification submitted under division (B) 41243
of this section, and the sale shall be from the inside of a 41244
licensed building and from no other structure or device outside a 41245
licensed building. At no time shall a licensed manufacturer sell 41246
any class of fireworks outside a licensed building. 41247

(3) Possess for sale at retail and sell at retail the 41248
fireworks manufactured by the manufacturer, other than 1.4G 41249
fireworks as designated by the state fire marshal in rules adopted 41250
pursuant to division (A) of section 3743.05 of the Revised Code, 41251
to licensed exhibitors in accordance with sections 3743.50 to 41252
3743.55 of the Revised Code, and possess for sale at retail and 41253
sell at retail the fireworks manufactured by the manufacturer, 41254
including 1.4G fireworks, to out-of-state residents in accordance 41255
with section 3743.44 of the Revised Code, to residents of this 41256
state in accordance with section 3743.45 of the Revised Code, or 41257
to persons located in another state provided the fireworks are 41258
shipped directly out of this state to them by the manufacturer. A 41259
person who is licensed as a manufacturer of fireworks on June 14, 41260
1988, may also possess for sale and sell pursuant to division 41261
(C)(3) of this section fireworks other than those the person 41262
manufactures. The possession for sale shall be on the premises of 41263
the fireworks plant described in the application for licensure or 41264
in the notification submitted under division (B) of this section, 41265
and the sale shall be from the inside of a licensed building and 41266

from no other structure or device outside a licensed building. At 41267
no time shall a licensed manufacturer sell any class of fireworks 41268
outside a licensed building. 41269

A licensed manufacturer of fireworks shall sell under 41270
division (C) of this section only fireworks that meet the 41271
standards set by the consumer product safety commission or by the 41272
American fireworks standard laboratories or that have received an 41273
EX number from the United States department of transportation. 41274

(D) The license of a manufacturer of fireworks shall be 41275
protected under glass and posted in a conspicuous place on the 41276
premises of the fireworks plant. Except as otherwise provided in 41277
this division, the license is not transferable or assignable. A 41278
license may be transferred to another person for the same 41279
fireworks plant for which the license was issued if the assets of 41280
the plant are transferred to that person by inheritance or by a 41281
sale approved by the state fire marshal. The license is subject to 41282
revocation in accordance with section 3743.08 of the Revised Code. 41283

(E) The state fire marshal shall not place the license of a 41284
manufacturer of fireworks in a temporarily inactive status while 41285
the holder of the license is attempting to qualify to retain the 41286
license. 41287

(F) Each licensed manufacturer of fireworks that possesses 41288
fireworks for sale and sells fireworks under division (C) of 41289
section 3743.04 of the Revised Code, or a designee of the 41290
manufacturer, whose identity is provided to the state fire marshal 41291
by the manufacturer, annually shall attend a continuing education 41292
program. The state fire marshal shall develop the program and the 41293
state fire marshal or a person or public agency approved by the 41294
state fire marshal shall conduct it. A licensed manufacturer or 41295
the manufacturer's designee who attends a program as required 41296
under this division, within one year after attending the program, 41297
shall conduct in-service training as approved by the state fire 41298

marshal for other employees of the licensed manufacturer regarding 41299
the information obtained in the program. A licensed manufacturer 41300
shall provide the state fire marshal with notice of the date, 41301
time, and place of all in-service training. For any program 41302
conducted under this division, the state fire marshal shall, in 41303
accordance with rules adopted by the state fire marshal under 41304
Chapter 119. of the Revised Code, establish the subjects to be 41305
taught, the length of classes, the standards for approval, and 41306
time periods for notification by the licensee to the state fire 41307
marshal of any in-service training. 41308

(G) A licensed manufacturer shall maintain comprehensive 41309
general liability insurance coverage in the amount and type 41310
specified under division (B)(2) of section 3743.02 of the Revised 41311
Code at all times. Each policy of insurance required under this 41312
division shall contain a provision requiring the insurer to give 41313
not less than fifteen days' prior written notice to the state fire 41314
marshal before termination, lapse, or cancellation of the policy, 41315
or any change in the policy that reduces the coverage below the 41316
minimum required under this division. Prior to canceling or 41317
reducing the amount of coverage of any comprehensive general 41318
liability insurance coverage required under this division, a 41319
licensed manufacturer shall secure supplemental insurance in an 41320
amount and type that satisfies the requirements of this division 41321
so that no lapse in coverage occurs at any time. A licensed 41322
manufacturer who secures supplemental insurance shall file 41323
evidence of the supplemental insurance with the state fire marshal 41324
prior to canceling or reducing the amount of coverage of any 41325
comprehensive general liability insurance coverage required under 41326
this division. 41327

(H) The state fire marshal shall adopt rules for the 41328
expansion or contraction of a licensed premises and for approval 41329
of such expansions or contractions. The boundaries of a licensed 41330

premises, including any geographic expansion or contraction of 41331
those boundaries, shall be approved by the state fire marshal in 41332
accordance with rules the state fire marshal adopts. If the 41333
licensed premises consists of more than one parcel of real estate, 41334
those parcels shall be contiguous unless an exception is allowed 41335
pursuant to division (I) of this section. 41336

(I)(1) A licensed manufacturer may expand its licensed 41337
premises within this state to include not more than two storage 41338
locations that are located upon one or more real estate parcels 41339
that are noncontiguous to the licensed premises as that licensed 41340
premises exists on the date a licensee submits an application as 41341
described below, if all of the following apply: 41342

(a) The licensee submits an application to the state fire 41343
marshal and an application fee of one hundred dollars per storage 41344
location for which the licensee is requesting approval. 41345

(b) The identity of the holder of the license remains the 41346
same at the storage location. 41347

(c) The storage location has received a valid certificate of 41348
zoning compliance as applicable and a valid certificate of 41349
occupancy for each building or structure at the storage location 41350
issued by the authority having jurisdiction to issue the 41351
certificate for the storage location, and those certificates 41352
permit the distribution and storage of fireworks regulated under 41353
this chapter at the storage location and in the buildings or 41354
structures. The storage location shall be in compliance with all 41355
other applicable federal, state, and local laws and regulations. 41356

(d) Every building or structure located upon the storage 41357
location is separated from occupied residential and nonresidential 41358
buildings or structures, railroads, highways, or any other 41359
buildings or structures on the licensed premises in accordance 41360
with the distances specified in the rules adopted by the state 41361

fire marshal pursuant to section 3743.05 of the Revised Code. 41362

(e) Neither the licensee nor any person holding, owning, or 41363
controlling a five per cent or greater beneficial or equity 41364
interest in the licensee has been convicted of or pleaded guilty 41365
to a felony under the laws of this state, any other state, or the 41366
United States, after September 29, 2005. 41367

(f) The state fire marshal approves the application for 41368
expansion. 41369

(2) The state fire marshal shall approve an application for 41370
expansion requested under division (I)(1) of this section if the 41371
state fire marshal receives the application fee and proof that the 41372
requirements of divisions (I)(1)(b) to (e) of this section are 41373
satisfied. The storage location shall be considered part of the 41374
original licensed premises and shall use the same distinct number 41375
assigned to the original licensed premises with any additional 41376
designations as the state fire marshal deems necessary in 41377
accordance with section 3743.03 of the Revised Code. 41378

(J)(1) A licensee who obtains approval for the use of a 41379
storage location in accordance with division (I) of this section 41380
shall use the storage location exclusively for the following 41381
activities, in accordance with division (C) of this section: 41382

(a) The packaging, assembling, or storing of fireworks, which 41383
shall only occur in buildings or structures approved for such 41384
hazardous uses by the building code official having jurisdiction 41385
for the storage location or, for 1.4G fireworks, in containers or 41386
trailers approved for such hazardous uses by the state fire 41387
marshal if such containers or trailers are not subject to 41388
regulation by the building code adopted in accordance with Chapter 41389
3781. of the Revised Code. All such storage shall be in accordance 41390
with the rules adopted by the state fire marshal under division 41391
(G) of section 3743.05 of the Revised Code for the packaging, 41392

assembling, and storage of fireworks. 41393

(b) Distributing fireworks to other parcels of real estate 41394
located on the manufacturer's licensed premises, to licensed 41395
wholesalers or other licensed manufacturers in this state or to 41396
similarly licensed persons located in another state or country; 41397

(c) Distributing fireworks to a licensed exhibitor of 41398
fireworks pursuant to a properly issued permit in accordance with 41399
section 3743.54 of the Revised Code. 41400

(2) A licensed manufacturer shall not engage in any sales 41401
activity, including the retail sale of fireworks otherwise 41402
permitted under division (C)(2) or (C)(3) of this section, or 41403
pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 41404
storage location approved under this section. 41405

(3) A storage location may not be relocated for a minimum 41406
period of five years after the storage location is approved by the 41407
state fire marshal in accordance with division (I) of this 41408
section. 41409

(K) The licensee shall prohibit public access to the storage 41410
location. The state fire marshal shall adopt rules to describe the 41411
acceptable measures a manufacturer shall use to prohibit access to 41412
the storage site. 41413

Sec. 3743.06. In addition to conforming to the rules of the 41414
fire marshal adopted pursuant to section 3743.05 of the Revised 41415
Code, licensed manufacturers of fireworks shall operate their 41416
fireworks plants in accordance with the following: 41417

(A) Signs indicating that smoking is generally forbidden and 41418
trespassing is prohibited on the premises of a fireworks plant 41419
shall be posted on the premises in a manner determined by the fire 41420
marshal. 41421

(B) Reasonable precautions shall be taken to protect the 41422

premises of a fireworks plant from trespass, loss, theft, or 41423
destruction. Only persons employed by the manufacturer, authorized 41424
governmental personnel, and persons who have obtained permission 41425
from a member of the manufacturer's office to be on the premises, 41426
are to be allowed to enter and remain on the premises. 41427

(C) Smoking or the carrying of pipes, cigarettes, or cigars, 41428
matches, lighters, other flame-producing items, or open flame on, 41429
or the carrying of a concealed source of ignition into, the 41430
premises of a fireworks plant is prohibited, except that a 41431
manufacturer may permit smoking in specified lunchrooms or 41432
restrooms in buildings or other structures in which no 41433
manufacturing, handling, sales, or storage of fireworks takes 41434
place. "NO SMOKING" signs shall be posted on the premises as 41435
required by the fire marshal. 41436

(D) Fire and explosion prevention and other reasonable safety 41437
measures and precautions shall be implemented by a manufacturer. 41438

(E) Persons shall not be permitted to have in their 41439
possession or under their control, while they are on the premises 41440
of the fireworks plant, any intoxicating liquor, beer, or 41441
controlled substance, and they shall not be permitted to enter or 41442
remain on the premises if they are found to be under the influence 41443
of any intoxicating liquor, beer, or controlled substance. 41444

(F) A manufacturer shall conform to all building, safety, and 41445
zoning statutes, ordinances, rules, or other enactments that apply 41446
to the premises of its fireworks plant. 41447

(G) Each fireworks plant shall have at least one class 1 41448
magazine that is approved by the bureau of alcohol, tobacco, and 41449
firearms of the United States department of the treasury and that 41450
is otherwise in conformity with federal law. This division does 41451
not apply to fireworks plants existing on or before August 3, 41452
1931. 41453

(H) Awnings, tents, and canopies shall not be used as 41454
facilities for the sale or storage of fireworks. This division 41455
does not prohibit the use of an awning or canopy attached to a 41456
public access showroom for storing nonflammable shopping 41457
convenience items such as shopping carts or baskets or providing a 41458
shaded area for patrons waiting to enter the public sales area. 41459

(I) Fireworks may be stored in trailers if the trailers are 41460
properly enclosed, secured, and grounded and are separated from 41461
any structure to which the public is admitted by a distance that 41462
will, in the fire marshal's judgment, allow fire-fighting 41463
equipment to have full access to the structures on the licensed 41464
premises. Such trailers may be moved into closer proximity to any 41465
structure only to accept or discharge cargo for a period not to 41466
exceed forty-eight hours. Only two such trailers may be placed in 41467
such closer proximity at any one time. At no time may trailers be 41468
used for conducting sales of any class of fireworks, nor may 41469
members of the public have access to the trailers. 41470

Storage areas for fireworks that are in the same building 41471
where fireworks are displayed and sold to the public shall be 41472
separated from the areas to which the public has access by an 41473
appropriately rated fire wall. 41474

(J) A fire suppression system as defined in section 3781.108 41475
of the Revised Code may be turned off only for repair, drainage of 41476
the system to prevent damage by freezing during the period of 41477
time, approved by the fire marshal, that the facility is closed to 41478
all public access during winter months, or maintenance of the 41479
system. If any repair or maintenance is necessary during times 41480
when the facility is open for public access and business as 41481
approved by the fire marshal, the licensed manufacturer shall 41482
notify in advance the appropriate insurance company and fire chief 41483
or fire prevention officer regarding the nature of the maintenance 41484
or repair and the time when it will be performed. 41485

(K) If any fireworks item is removed from its original 41486
package or is manufactured with any fuse other than a safety fuse 41487
approved by the consumer product safety commission, then the item 41488
shall be covered completely by repackaging or bagging or it shall 41489
otherwise be covered so as to prevent ignition prior to sale. 41490

(L) A safety officer shall be present during regular business 41491
hours at a building open to the public during the period 41492
commencing fourteen days before, and ending two days after, each 41493
fourth day of July. The officer shall be highly visible, enforce 41494
this chapter and any applicable building codes to the extent the 41495
officer is authorized by law, and be one of the following: 41496

(1) A deputy sheriff; 41497

(2) A law enforcement officer of a municipal corporation, 41498
township, or township or joint police district; 41499

(3) A private uniformed security guard registered under 41500
section 4749.06 of the Revised Code. 41501

(M) All doors of all buildings on the licensed premises shall 41502
swing outward. 41503

(N) All wholesale and commercial sales of fireworks shall be 41504
packaged, shipped, placarded, and transported in accordance with 41505
United States department of transportation regulations applicable 41506
to the transportation, and the offering for transportation, of 41507
hazardous materials. For purposes of this division, "wholesale and 41508
commercial sales" includes all sales for resale and any nonretail 41509
sale made in furtherance of a commercial enterprise. For purposes 41510
of enforcement of these regulations under section ~~4905.83~~ 4923.99 41511
of the Revised Code, any sales transaction exceeding one thousand 41512
pounds shall be rebuttably presumed to be a wholesale or 41513
commercial sale. 41514

Sec. 3743.19. In addition to conforming to the rules of the 41515

fire marshal adopted pursuant to section 3743.18 of the Revised Code, licensed wholesalers of fireworks shall conduct their business operations in accordance with the following:

(A) A wholesaler shall conduct its business operations from the location described in its application for licensure or in a notification submitted under division (B) of section 3743.17 of the Revised Code.

(B) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a wholesaler shall be posted on the premises as determined by the fire marshal.

(C) Reasonable precautions shall be taken to protect the premises of a wholesaler from trespass, loss, theft, or destruction.

(D) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a wholesaler is prohibited, except that a wholesaler may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no sales, handling, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(E) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a wholesaler.

(F) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of a wholesaler, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(G) A wholesaler shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply

to its premises. 41547

(H) Each building used in the sale of fireworks shall be kept 41548
open to the public for at least four hours each day between the 41549
hours of eight a.m. and five p.m., five days of each week, every 41550
week of the year. Upon application from a licensed wholesaler, the 41551
fire marshal may waive any of the requirements of this division. 41552

(I) Awnings, tents, or canopies shall not be used as 41553
facilities for the storage or sale of fireworks. This division 41554
does not prohibit the use of an awning or canopy attached to a 41555
public access showroom for storing nonflammable shopping 41556
convenience items such as shopping carts or baskets or providing a 41557
shaded area for patrons waiting to enter the public sales area. 41558

(J) 1.4G fireworks may be stored in trailers if the trailers 41559
are properly enclosed, secured, and grounded and are separated 41560
from any structure to which the public is admitted by a distance 41561
that will, in the fire marshal's judgment, allow fire-fighting 41562
equipment to have full access to the structures on the licensed 41563
premises. Such trailers may be moved into closer proximity to any 41564
structure only to accept or discharge cargo for a period not to 41565
exceed forty-eight hours. Only two such trailers may be placed in 41566
such closer proximity at any one time. At no time may trailers be 41567
used for conducting sales of any class of fireworks nor may 41568
members of the public have access to the trailers. 41569

Storage areas for fireworks that are in the same building 41570
where fireworks are displayed and sold to the public shall be 41571
separated from the areas to which the public has access by an 41572
appropriately rated fire wall. If the licensee installs and 41573
properly maintains an early suppression fast response sprinkler 41574
system or equivalent fire suppression system as described in the 41575
fire code adopted by the fire marshal in accordance with section 41576
3737.82 of the Revised Code throughout the structure, a fire 41577
barrier wall may be substituted for a fire wall between the areas 41578

to which the public has access and the storage portions of the structure. 41579
41580

(K) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal under division (I) of this section, that the facility is closed to public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business, the licensed wholesaler shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed. 41581
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(L) If any fireworks item is removed from its original package or is manufactured with any fuse other than a fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale. 41592
41593
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(M) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following: 41597
41598
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41600
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41602

(1) A deputy sheriff; 41603

(2) A law enforcement officer of a municipal corporation, township, or township or joint police district; 41604
41605

(3) A private uniformed security guard registered under section 4749.06 of the Revised Code. 41606
41607

(N) All doors of all buildings on the licensed premises shall swing outward. 41608
41609

(O) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section ~~4905.83~~ 4923.99 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.25. (A)(1) Except as described in division (A)(2) of this section, all retail sales of 1.4G fireworks by a licensed manufacturer or wholesaler shall only occur from an approved retail sales showroom on a licensed premises or from a representative sample showroom as described in this section on a licensed premises. For the purposes of this section, a retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.

(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 41641
at wholesale. A wholesale sale by a licensed manufacturer or 41642
wholesaler may occur as follows: 41643

(1) The direct sale and shipment of fireworks to a person 41644
outside of this state; 41645

(2) From an approved retail sales showroom as described in 41646
this section; 41647

(3) From a representative sample showroom as described in 41648
this section; 41649

(4) By delivery of wholesale fireworks to a purchaser at a 41650
licensed premises outside of a structure or building on that 41651
premises. All other portions of the wholesale sales transaction 41652
may occur at any location on a licensed premises. 41653

(5) Any other method as described in rules adopted by the 41654
state fire marshal under Chapter 119. of the Revised Code. 41655

(C) A licensed manufacturer or wholesaler shall only sell 41656
1.4G fireworks from a representative sample showroom or a retail 41657
sales showroom. Each licensed premises shall only contain one 41658
sales structure. 41659

A representative sample showroom shall consist of a structure 41660
constructed and maintained in accordance with the nonresidential 41661
building code adopted under Chapter 3781. of the Revised Code and 41662
the fire code adopted under section 3737.82 of the Revised Code 41663
for a use and occupancy group that permits mercantile sales. A 41664
representative sample showroom shall not contain any pyrotechnics, 41665
pyrotechnic materials, fireworks, explosives, explosive materials, 41666
or any similar hazardous materials or substances. A representative 41667
sample showroom shall be used only for the public viewing of 41668
fireworks product representations, including paper materials, 41669
packaging materials, catalogs, photographs, or other similar 41670
product depictions. The delivery of product to a purchaser of 41671

fireworks at a licensed premises that has a representative sample 41672
structure shall not occur inside any structure on a licensed 41673
premises. Such product delivery shall occur on the licensed 41674
premises in a manner prescribed by rules adopted by the state fire 41675
marshal pursuant to Chapter 119. of the Revised Code. 41676

If a manufacturer or wholesaler elects to conduct sales from 41677
a retail sales showroom, the showroom structures, to which the 41678
public may have any access and in which employees are required to 41679
work, on all licensed premises, shall comply with the following 41680
safety requirements: 41681

(1) A fireworks showroom that is constructed or upon which 41682
expansion is undertaken on and after June 30, 1997, shall be 41683
equipped with interlinked fire detection, fire suppression, smoke 41684
exhaust, and smoke evacuation systems that are approved by the 41685
superintendent of ~~labor~~ industrial compliance in the department of 41686
commerce. 41687

(2) A fireworks showroom that first begins to operate on or 41688
after June 30, 1997, and to which the public has access for retail 41689
purposes shall not exceed five thousand square feet in floor area. 41690

(3) A newly constructed or an existing fireworks showroom 41691
structure that exists on September 23, 2008, but that, on or after 41692
September 23, 2008, is altered or added to in a manner requiring 41693
the submission of plans, drawings, specifications, or data 41694
pursuant to section 3791.04 of the Revised Code, shall comply with 41695
a graphic floor plan layout that is approved by the state fire 41696
marshal and superintendent showing width of aisles, parallel 41697
arrangement of aisles to exits, number of exits per wall, maximum 41698
occupancy load, evacuation plan for occupants, height of storage 41699
or display of merchandise, and other information as may be 41700
required by the state fire marshal and superintendent. 41701

(4) A fireworks showroom structure that exists on June 30, 41702

1997, shall be in compliance on or after June 30, 1997, with floor 41703
plans showing occupancy load limits and internal circulation and 41704
egress patterns that are approved by the state fire marshal and 41705
superintendent, and that are submitted under seal as required by 41706
section 3791.04 of the Revised Code. 41707

(D) The safety requirements established in division (C) of 41708
this section are not subject to any variance, waiver, or exclusion 41709
pursuant to this chapter or any applicable building code. 41710

Sec. 3745.01. There is hereby created the environmental 41711
protection agency, headed by the director of environmental 41712
protection. The agency, under the supervision of the director, 41713
shall administer the laws pertaining to chemical emergency 41714
planning, community right-to-know, and toxic chemical release 41715
reporting; the cessation of chemical handling operations; the 41716
prevention, control, and abatement of air and water pollution; 41717
public water supply; comprehensive water resource management 41718
planning; products that contain mercury as defined in section 41719
3734.61 of the Revised Code; and the disposal and treatment of 41720
solid wastes, infectious wastes, construction and demolition 41721
debris, hazardous waste, sewage, industrial waste, and other 41722
wastes. The director may do all of the following: 41723

(A) Provide such methods of administration, appoint such 41724
personnel, make such reports, and take such other action as may be 41725
necessary to comply with the requirements of the federal laws and 41726
regulations pertaining to chemical emergency planning, community 41727
right-to-know, and toxic chemical release reporting; air and water 41728
pollution control; public water supply; water resource planning; 41729
and waste disposal and treatment; 41730

(B) Procure by contract the temporary or intermittent 41731
services of experts or consultants, or organizations thereof, when 41732
those services are to be performed on a part-time or 41733

fee-for-service basis and do not involve the performance of 41734
administrative duties; 41735

(C) Advise, consult, cooperate, and enter into contracts or 41736
agreements, including consensual administrative order agreements, 41737
with any other agencies of the state, the federal government, 41738
other states, ~~and~~ interstate agencies, and persons and with 41739
affected groups, political subdivisions, and industries in 41740
furtherance of the purposes of this chapter and Chapters 3704., 41741
3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code; 41742

(D) Establish advisory boards in accordance with section 41743
121.13 of the Revised Code; 41744

(E) Accept on behalf of the state any grant, gift, or 41745
contribution made for toxic chemical release reporting, air or 41746
water pollution control, public water supply, water resource 41747
planning, waste disposal or treatment, or related purposes, and 41748
expend it for those purposes; 41749

(F) Make an annual report to the governor and the general 41750
assembly on activities and expenditures as well as recommendations 41751
for such additional legislation as the director considers 41752
appropriate to carry out the director's duties or accomplish the 41753
purposes of this section; 41754

(G) Enter into environmental covenants in accordance with 41755
sections 5301.80 to 5301.92 of the Revised Code, and grant or 41756
accept easements or sell real property pursuant to section 41757
3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code, as 41758
applicable. 41759

The agency shall utilize the laboratory facilities of the 41760
department of health and other state institutions and agencies to 41761
the maximum extent that the utilization is practicable, 41762
economical, and technically satisfactory. 41763

The director shall maintain and keep available for public 41764

inspection, at the director's principal office, a current register 41765
of all applications filed for permits, leases, licenses, 41766
variances, certificates, and approval of plans and specifications 41767
and of publicly owned treatment works pretreatment programs under 41768
the director's jurisdiction, hearings pending, the director's 41769
final action thereon, and the dates on which the filings, 41770
hearings, and final actions occur. The director shall maintain and 41771
keep available for public inspection at the director's principal 41772
office all plans, reports, and other documents required to be 41773
filed with the emergency response commission under Chapter 3750. 41774
of the Revised Code and rules adopted under it, and all reports 41775
and other documents required to be filed with the director under 41776
Chapter 3751. of the Revised Code and rules adopted under it, 41777
subject to the requirements of those chapters and rules adopted 41778
under them for the protection of trade secrets and confidential 41779
business information from disclosure to persons not authorized 41780
under those laws to receive trade secret or confidential business 41781
information. 41782

Sec. 3745.05. (A) In hearing the appeal, if an adjudication 41783
hearing was conducted by the director of environmental protection 41784
in accordance with sections 119.09 and 119.10 of the Revised Code 41785
or conducted by a board of health, the environmental review 41786
appeals commission is confined to the record as certified to it by 41787
the director or the board of health, as applicable. The commission 41788
may grant a request for the admission of additional evidence when 41789
satisfied that such additional evidence is newly discovered and 41790
could not with reasonable diligence have been ascertained prior to 41791
the hearing before the director or the board, as applicable. If no 41792
adjudication hearing was conducted in accordance with sections 41793
119.09 and 119.10 of the Revised Code or conducted by a board of 41794
health, the commission shall conduct a hearing de novo on the 41795
appeal. 41796

For the purpose of conducting a de novo hearing, or where the
commission has granted a request for the admission of additional
evidence, the commission may require the attendance of witnesses
and the production of written or printed materials.

When conducting a de novo hearing, or when a request for the
admission of additional evidence has been granted, the commission
may, and at the request of any party it shall, issue subpoenas for
witnesses or for books, papers, correspondence, memoranda,
agreements, or other documents or records relevant or material to
the inquiry directed to the sheriff of the counties where the
witnesses or documents or records are found, which subpoenas shall
be served and returned in the same manner as those allowed by the
court of common pleas in criminal cases.

(B) 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. The fee and mileage expenses incurred at the
request of the appellant shall be paid in advance by the
appellant, and the remainder of the expenses shall be paid out of
funds appropriated for the expenses of the commission.

(C) In case of disobedience or neglect of any subpoena served
on any person, or the refusal of any witness to testify to any
matter regarding which the witness may be lawfully interrogated,
the court of common pleas of the county in which the disobedience,
neglect, or refusal occurs, or any judge thereof, on application
of the commission or any member thereof, may compel obedience by
attachment proceedings for contempt as in the case of disobedience
of the requirements of a subpoena issued from the court or a
refusal to testify therein.

(D) A witness at any hearing shall testify under oath or
affirmation, which any member of the commission may administer. A
witness, if the witness requests, shall be permitted to be

accompanied, represented, and advised by an attorney, whose 41829
participation in the hearing shall be limited to the protection of 41830
the rights of the witness, and who may not examine or 41831
cross-examine witnesses. A witness shall be advised of the right 41832
to counsel before the witness is interrogated. 41833

(E) A ~~stenographic~~ record of the testimony and other evidence 41834
submitted shall be taken by an official court ~~shorthand~~ reporter. 41835
The record shall include all of the testimony and other evidence 41836
and the rulings on the admissibility thereof presented at the 41837
hearing. The commission shall pass upon the admissibility of 41838
evidence, but any party may at the time object to the admission of 41839
any evidence and except to the rulings of the commission thereon, 41840
and if the commission refuses to admit evidence the party offering 41841
same may make a proffer thereof, and such proffer shall be made a 41842
part of the record of such hearing. 41843

Any party may request the ~~stenographic~~ record of the hearing. 41844
Promptly after receiving such a request, the commission shall 41845
prepare and provide the ~~stenographic~~ record of the hearing to the 41846
party who requested it. The commission may charge a fee to the 41847
party who requested the ~~stenographic~~ record that does not exceed 41848
the cost to the commission for preparing and transcribing or 41849
transmitting it. 41850

(F) If, upon completion of the hearing, the commission finds 41851
that the action appealed from was lawful and reasonable, it shall 41852
make a written order affirming the action, or if the commission 41853
finds that the action was unreasonable or unlawful, it shall make 41854
a written order vacating or modifying the action appealed from. 41855

The commission shall issue a written order affirming, 41856
vacating, or modifying an action pursuant to the following 41857
schedule: 41858

(1) For an appeal that was filed with the commission before 41859

April 15, 2008, the commission shall issue a written order not 41860
later than December 15, 2009. 41861

(2) For all other appeals that have been filed with the 41862
commission as of October 15, 2009, the commission shall issue a 41863
written order not later than July 15, 2010. 41864

(3) For an appeal that is filed with the commission after 41865
October 15, 2009, the commission shall issue a written order not 41866
later than twelve months after the filing of the appeal with the 41867
commission. 41868

(G) Every order made by the commission shall contain a 41869
written finding by the commission of the facts upon which the 41870
order is based. Notice of the making of the order shall be given 41871
forthwith to each party to the appeal by mailing a certified copy 41872
thereof to each party by certified mail, with a statement of the 41873
time and method by which an appeal may be perfected. 41874

(H) The order of the commission is final unless vacated or 41875
modified upon judicial review. 41876

Sec. 3745.11. (A) Applicants for and holders of permits, 41877
licenses, variances, plan approvals, and certifications issued by 41878
the director of environmental protection pursuant to Chapters 41879
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 41880
to the environmental protection agency for each such issuance and 41881
each application for an issuance as provided by this section. No 41882
fee shall be charged for any issuance for which no application has 41883
been submitted to the director. 41884

~~(B) Each person who is issued a permit to install prior to 41885
July 1, 2003, pursuant to rules adopted under division (F) of 41886
section 3704.03 of the Revised Code shall pay the fees specified 41887
in the following schedules: 41888~~

~~(1) Fuel burning equipment (boilers) 41889~~

| | | |
|---|------------------------------|-------|
| Input capacity (maximum) | | 41890 |
| (million British thermal units per hour) | Permit to install | 41891 |
| Greater than 0, but less than 10 | \$ 200 | 41892 |
| 10 or more, but less than 100 | 400 | 41893 |
| 100 or more, but less than 300 | 800 | 41894 |
| 300 or more, but less than 500 | 1500 | 41895 |
| 500 or more, but less than 1000 | 2500 | 41896 |
| 1000 or more, but less than 5000 | 4000 | 41897 |
| 5000 or more | 6000 | 41898 |
| Units burning exclusively natural gas, number two fuel oil, | | 41899 |
| or both shall be assessed a fee that is one half of the applicable | | 41900 |
| amount established in division (F)(1) of this section. | | 41901 |
| (2) Incinerators | | 41902 |
| Input capacity (pounds per hour) | Permit to install | 41903 |
| 0 to 100 | \$ 100 | 41904 |
| 101 to 500 | 400 | 41905 |
| 501 to 2000 | 750 | 41906 |
| 2001 to 20,000 | 1000 | 41907 |
| more than 20,000 | 2500 | 41908 |
| (3)(a) Process | | 41909 |
| Process weight rate (pounds per hour) | Permit to install | 41910 |
| 0 to 1000 | \$ 200 | 41911 |
| 1001 to 5000 | 400 | 41912 |
| 5001 to 10,000 | 600 | 41913 |
| 10,001 to 50,000 | 800 | 41914 |
| more than 50,000 | 1000 | 41915 |
| In any process where process weight rate cannot be | | 41916 |
| ascertained, the minimum fee shall be assessed. | | 41917 |
| (b) Notwithstanding division (B)(3)(a) of this section, any | | 41918 |
| person issued a permit to install pursuant to rules adopted under | | 41919 |
| division (F) of section 3704.03 of the Revised Code shall pay the | | 41920 |
| fees established in division (B)(3)(c) of this section for a | | 41921 |

| | | |
|--|-------------------|-------|
| process used in any of the following industries, as identified by | 41922 | |
| the applicable four digit standard industrial classification code | 41923 | |
| according to the Standard Industrial Classification Manual | 41924 | |
| published by the United States office of management and budget in | 41925 | |
| the executive office of the president, 1972, as revised: | 41926 | |
| 1211 Bituminous coal and lignite mining; | 41927 | |
| 1213 Bituminous coal and lignite mining services; | 41928 | |
| 1411 Dimension stone; | 41929 | |
| 1422 Crushed and broken limestone; | 41930 | |
| 1427 Crushed and broken stone, not elsewhere classified; | 41931 | |
| 1442 Construction sand and gravel; | 41932 | |
| 1446 Industrial sand; | 41933 | |
| 3281 Cut stone and stone products; | 41934 | |
| 3295 Minerals and earth, ground or otherwise treated. | 41935 | |
| (c) The fees established in the following schedule apply to | 41936 | |
| the issuance of a permit to install pursuant to rules adopted | 41937 | |
| under division (F) of section 3704.03 of the Revised Code for a | 41938 | |
| process listed in division (B)(3)(b) of this section: | 41939 | |
| Process weight rate (pounds per hour) | Permit to install | 41940 |
| 0 to 1000 | \$ 200 | 41941 |
| 10,001 to 50,000 | 300 | 41942 |
| 50,001 to 100,000 | 400 | 41943 |
| 100,001 to 200,000 | 500 | 41944 |
| 200,001 to 400,000 | 600 | 41945 |
| 400,001 or more | 700 | 41946 |
| (4) Storage tanks | | 41947 |
| Gallons (maximum useful capacity) | Permit to install | 41948 |
| 0 to 20,000 | \$ 100 | 41949 |
| 20,001 to 40,000 | 150 | 41950 |

| | | |
|---------------------------------|----------------|-------|
| 40,001 to 100,000 | 200 | 41951 |
| 100,001 to 250,000 | 250 | 41952 |
| 250,001 to 500,000 | 350 | 41953 |
| 500,001 to 1,000,000 | 500 | 41954 |
| 1,000,001 or greater | 750 | 41955 |

| | | |
|---|------------------------------|-------|
| (5) Gasoline/fuel dispensing facilities | | 41956 |
| For each gasoline/fuel dispensing facility | Permit to install | 41957 |
| | \$ 100 | 41958 |

| | | |
|---|------------------------------|-------|
| (6) Dry cleaning facilities | | 41959 |
| For each dry cleaning facility | Permit to install | 41960 |
| (includes all units at the facility) | \$ 100 | 41961 |

| | | |
|---|------------------------------|-------|
| (7) Registration status | | 41962 |
| For each source covered by registration status | Permit to install | 41963 |
| | \$ 75 | 41964 |

~~(C)(1)~~ Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in this division ~~(C)(1)~~ ~~of this section~~. For the purposes of ~~that~~ this division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

~~(a)(1)~~ Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

~~(b)(2)~~ Twenty dollars per ton on the total actual emissions

of each such regulated pollutant during calendar year 1994, to be 41982
collected no sooner than April 15, 1995; 41983

~~(e)~~(3) Twenty-five dollars per ton on the total actual 41984
emissions of each such regulated pollutant in calendar year 1995, 41985
and each subsequent calendar year, to be collected no sooner than 41986
the fifteenth day of April of the year next succeeding the 41987
calendar year in which the emissions occurred. 41988

The fees levied under this division ~~(C)(1)~~ of ~~this section~~ do 41989
not apply to that portion of the emissions of a regulated 41990
pollutant at a facility that exceed four thousand tons during a 41991
calendar year. 41992

~~(2)~~(C)(1) The fees assessed under division ~~(C)(1)~~(B) of this 41993
section are for the purpose of providing funding for the Title V 41994
permit program. 41995

~~(3)~~(2) The fees assessed under division ~~(C)(1)~~(B) of this 41996
section do not apply to emissions from any electric generating 41997
unit designated as a Phase I unit under Title IV of the federal 41998
Clean Air Act prior to calendar year 2000. Those fees shall be 41999
assessed on the emissions from such a generating unit commencing 42000
in calendar year 2001 based upon the total actual emissions from 42001
the generating unit during calendar year 2000 and shall continue 42002
to be assessed each subsequent calendar year based on the total 42003
actual emissions from the generating unit during the preceding 42004
calendar year. 42005

~~(4)~~(3) The director shall issue invoices to owners or 42006
operators of air contaminant sources who are required to pay a fee 42007
assessed under division ~~(C)~~(B) or (D) of this section. Any such 42008
invoice shall be issued no sooner than the applicable date when 42009
the fee first may be collected in a year under the applicable 42010
division, shall identify the nature and amount of the fee 42011
assessed, and shall indicate that the fee is required to be paid 42012

within thirty days after the issuance of the invoice. 42013

(D)(1) Except as provided in division (D)(3) of this section, 42014
from January 1, 1994, through December 31, 2003, each person who 42015
owns or operates an air contaminant source; who is required to 42016
apply for a permit to operate pursuant to rules adopted under 42017
division (G), or a variance pursuant to division (H), of section 42018
3704.03 of the Revised Code; and who is not required to apply for 42019
and obtain a Title V permit under section 3704.036 of the Revised 42020
Code shall pay a single fee based upon the sum of the actual 42021
annual emissions from the facility of the regulated pollutants 42022
particulate matter, sulfur dioxide, nitrogen oxides, organic 42023
compounds, and lead in accordance with the following schedule: 42024

| Total tons per year | | | 42025 |
|-------------------------------|--------------|--|-------|
| of regulated pollutants | Annual fee | | 42026 |
| emitted | per facility | | 42027 |
| More than 0, but less than 50 | \$ 75 | | 42028 |
| 50 or more, but less than 100 | 300 | | 42029 |
| 100 or more | 700 | | 42030 |

(2) Except as provided in division (D)(3) of this section, 42031
beginning January 1, 2004, each person who owns or operates an air 42032
contaminant source; who is required to apply for a permit to 42033
operate pursuant to rules adopted under division (G), or a 42034
variance pursuant to division (H), of section 3704.03 of the 42035
Revised Code; and who is not required to apply for and obtain a 42036
Title V permit under section 3704.03 of the Revised Code shall pay 42037
a single fee based upon the sum of the actual annual emissions 42038
from the facility of the regulated pollutants particulate matter, 42039
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 42040
accordance with the following schedule: 42041

| Total tons per year | | | 42042 |
|-------------------------|--------------|--|-------|
| of regulated pollutants | Annual fee | | 42043 |
| emitted | per facility | | 42044 |

| | | |
|-------------------------------|--------|-------|
| More than 0, but less than 10 | \$ 100 | 42045 |
| 10 or more, but less than 50 | 200 | 42046 |
| 50 or more, but less than 100 | 300 | 42047 |
| 100 or more | 700 | 42048 |

(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 | 42065 |
| 10 or more, but less than 20 | 340 | 42066 |
| 20 or more, but less than 30 | 670 | 42067 |
| 30 or more, but less than 40 | 1,010 | 42068 |
| 40 or more, but less than 50 | 1,340 | 42069 |
| 50 or more, but less than 60 | 1,680 | 42070 |
| 60 or more, but less than 70 | 2,010 | 42071 |
| 70 or more, but less than 80 | 2,350 | 42072 |
| 80 or more, but less than 90 | 2,680 | 42073 |
| 90 or more, but less than 100 | 3,020 | 42074 |
| 100 or more | 3,350 | 42075 |

(4) The fees assessed under division (D)(1) of this section

shall be collected annually no sooner than the fifteenth day of 42077
April, commencing in 1995. The fees assessed under division (D)(2) 42078
of this section shall be collected annually no sooner than the 42079
fifteenth day of April, commencing in 2005. The fees assessed 42080
under division (D)(3) of this section shall be collected no sooner 42081
than the fifteenth day of April, commencing in 2000. The fees 42082
assessed under division (D) of this section in a calendar year 42083
shall be based upon the sum of the actual emissions of those 42084
regulated pollutants during the preceding calendar year. For the 42085
purpose of division (D) of this section, emissions of air 42086
contaminants may be calculated using engineering calculations, 42087
emission factors, material balance calculations, or performance 42088
testing procedures, as authorized by the director. The director, 42089
by rule, may require persons who are required to pay the fees 42090
assessed under division (D) of this section to pay those fees 42091
biennially rather than annually. 42092

(E)(1) Consistent with the need to cover the reasonable costs 42093
of the Title V permit program, the director annually shall 42094
increase the fees prescribed in division ~~(C)(1)~~(B) of this section 42095
by the percentage, if any, by which the consumer price index for 42096
the most recent calendar year ending before the beginning of a 42097
year exceeds the consumer price index for calendar year 1989. Upon 42098
calculating an increase in fees authorized by division (E)(1) of 42099
this section, the director shall compile revised fee schedules for 42100
the purposes of division ~~(C)(1)~~(B) of this section and shall make 42101
the revised schedules available to persons required to pay the 42102
fees assessed under that division and to the public. 42103

(2) For the purposes of division (E)(1) of this section: 42104

(a) The consumer price index for any year is the average of 42105
the consumer price index for all urban consumers published by the 42106
United States department of labor as of the close of the 42107
twelve-month period ending on the thirty-first day of August of 42108

that year. 421109

(b) If the 1989 consumer price index is revised, the director 421110
shall use the revision of the consumer price index that is most 421111
consistent with that for calendar year 1989. 421112

(F) Each person who is issued a permit to install pursuant to 421113
rules adopted under division (F) of section 3704.03 of the Revised 421114
Code on or after July 1, 2003, shall pay the fees specified in the 421115
following schedules: 421116

(1) Fuel-burning equipment (boilers, furnaces, or process 421117
heaters used in the process of burning fuel for the primary 421118
purpose of producing heat or power by indirect heat transfer) 421119
Input capacity (maximum) 421120
(million British thermal units per hour) Permit to install 421121

| | | |
|----------------------------------|--------|--------|
| Greater than 0, but less than 10 | \$ 200 | 421122 |
| 10 or more, but less than 100 | 400 | 421123 |
| 100 or more, but less than 300 | 1000 | 421124 |
| 300 or more, but less than 500 | 2250 | 421125 |
| 500 or more, but less than 1000 | 3750 | 421126 |
| 1000 or more, but less than 5000 | 6000 | 421127 |
| 5000 or more | 9000 | 421128 |

Units burning exclusively natural gas, number two fuel oil, 421129
or both shall be assessed a fee that is one-half the applicable 421130
amount shown in division (F)(1) of this section. 421131

(2) Combustion turbines and stationary internal combustion 421132
engines designed to generate electricity 421133
Generating capacity (mega watts) Permit to install 421134

| | | |
|--------------------------------|-------|--------|
| 0 or more, but less than 10 | \$ 25 | 421135 |
| 10 or more, but less than 25 | 150 | 421136 |
| 25 or more, but less than 50 | 300 | 421137 |
| 50 or more, but less than 100 | 500 | 421138 |
| 100 or more, but less than 250 | 1000 | 421139 |

| | | |
|--|-------------------|-------|
| 250 or more | 2000 | 42140 |
| (3) Incinerators | | 42141 |
| Input capacity (pounds per hour) | Permit to install | 42142 |
| 0 to 100 | \$ 100 | 42143 |
| 101 to 500 | 500 | 42144 |
| 501 to 2000 | 1000 | 42145 |
| 2001 to 20,000 | 1500 | 42146 |
| more than 20,000 | 3750 | 42147 |
| (4)(a) Process | | 42148 |
| Process weight rate (pounds per hour) | Permit to install | 42149 |
| 0 to 1000 | \$ 200 | 42150 |
| 1001 to 5000 | 500 | 42151 |
| 5001 to 10,000 | 750 | 42152 |
| 10,001 to 50,000 | 1000 | 42153 |
| more than 50,000 | 1250 | 42154 |
| In any process where process weight rate cannot be | | 42155 |
| ascertained, the minimum fee shall be assessed. A boiler, furnace, | | 42156 |
| combustion turbine, stationary internal combustion engine, or | | 42157 |
| process heater designed to provide direct heat or power to a | | 42158 |
| process not designed to generate electricity shall be assessed a | | 42159 |
| fee established in division (F)(4)(a) of this section. A | | 42160 |
| combustion turbine or stationary internal combustion engine | | 42161 |
| designed to generate electricity shall be assessed a fee | | 42162 |
| established in division (F)(2) of this section. | | 42163 |
| (b) Notwithstanding division (F)(4)(a) of this section, any | | 42164 |
| person issued a permit to install pursuant to rules adopted under | | 42165 |
| division (F) of section 3704.03 of the Revised Code shall pay the | | 42166 |
| fees set forth in division (F)(4)(c) of this section for a process | | 42167 |
| used in any of the following industries, as identified by the | | 42168 |
| applicable two-digit, three-digit, or four-digit standard | | 42169 |
| industrial classification code according to the Standard | | 42170 |
| Industrial Classification Manual published by the United States | | 42171 |

| | | |
|---|-------------------|-------|
| office of management and budget in the executive office of the | 42172 | |
| president, 1987, as revised: | 42173 | |
| Major group 10, metal mining; | 42174 | |
| Major group 12, coal mining; | 42175 | |
| Major group 14, mining and quarrying of nonmetallic minerals; | 42176 | |
| Industry group 204, grain mill products; | 42177 | |
| 2873 Nitrogen fertilizers; | 42178 | |
| 2874 Phosphatic fertilizers; | 42179 | |
| 3281 Cut stone and stone products; | 42180 | |
| 3295 Minerals and earth, ground or otherwise treated; | 42181 | |
| 4221 Grain elevators (storage only); | 42182 | |
| 5159 Farm related raw materials; | 42183 | |
| 5261 Retail nurseries and lawn and garden supply stores. | 42184 | |
| (c) The fees set forth in the following schedule apply to the | 42185 | |
| issuance of a permit to install pursuant to rules adopted under | 42186 | |
| division (F) of section 3704.03 of the Revised Code for a process | 42187 | |
| identified in division (F)(4)(b) of this section: | 42188 | |
| Process weight rate (pounds per | Permit to install | 42189 |
| hour) | | |
| 0 to 10,000 | \$ 200 | 42190 |
| 10,001 to 50,000 | 400 | 42191 |
| 50,001 to 100,000 | 500 | 42192 |
| 100,001 to 200,000 | 600 | 42193 |
| 200,001 to 400,000 | 750 | 42194 |
| 400,001 or more | 900 | 42195 |
| (5) Storage tanks | | 42196 |
| Gallons (maximum useful capacity) | Permit to install | 42197 |
| 0 to 20,000 | \$ 100 | 42198 |
| 20,001 to 40,000 | 150 | 42199 |

| | | |
|--|-------------------|-------|
| 40,001 to 100,000 | 250 | 42200 |
| 100,001 to 500,000 | 400 | 42201 |
| 500,001 or greater | 750 | 42202 |
| (6) Gasoline/fuel dispensing facilities | | 42203 |
| For each gasoline/fuel | | 42204 |
| dispensing facility (includes all | Permit to install | 42205 |
| units at the facility) | \$ 100 | 42206 |
| (7) Dry cleaning facilities | | 42207 |
| For each dry cleaning | | 42208 |
| facility (includes all units | Permit to install | 42209 |
| at the facility) | \$ 100 | 42210 |
| (8) Registration status | | 42211 |
| For each source covered | Permit to install | 42212 |
| by registration status | \$ 75 | 42213 |
| (G) An owner or operator who is responsible for an asbestos | | 42214 |
| demolition or renovation project pursuant to rules adopted under | | 42215 |
| section 3704.03 of the Revised Code shall pay the fees set forth | | 42216 |
| in the following schedule: | | 42217 |
| Action | Fee | 42218 |
| Each notification | \$75 | 42219 |
| Asbestos removal | \$3/unit | 42220 |
| Asbestos cleanup | \$4/cubic yard | 42221 |
| For purposes of this division, "unit" means any combination of | | 42222 |
| linear feet or square feet equal to fifty. | | 42223 |
| (H) A person who is issued an extension of time for a permit | | 42224 |
| to install an air contaminant source pursuant to rules adopted | | 42225 |
| under division (F) of section 3704.03 of the Revised Code shall | | 42226 |
| pay a fee equal to one-half the fee originally assessed for the | | 42227 |
| permit to install under this section, except that the fee for such | | 42228 |
| an extension shall not exceed two hundred dollars. | | 42229 |
| (I) A person who is issued a modification to a permit to | | 42230 |

install an air contaminant source pursuant to rules adopted under 42231
section 3704.03 of the Revised Code shall pay a fee equal to 42232
one-half of the fee that would be assessed under this section to 42233
obtain a permit to install the source. The fee assessed by this 42234
division only applies to modifications that are initiated by the 42235
owner or operator of the source and shall not exceed two thousand 42236
dollars. 42237

(J) Notwithstanding division ~~(B)~~ or (F) of this section, a 42238
person who applies for or obtains a permit to install pursuant to 42239
rules adopted under division (F) of section 3704.03 of the Revised 42240
Code after the date actual construction of the source began shall 42241
pay a fee for the permit to install that is equal to twice the fee 42242
that otherwise would be assessed under the applicable division 42243
unless the applicant received authorization to begin construction 42244
under division (W) of section 3704.03 of the Revised Code. This 42245
division only applies to sources for which actual construction of 42246
the source begins on or after July 1, 1993. The imposition or 42247
payment of the fee established in this division does not preclude 42248
the director from taking any administrative or judicial 42249
enforcement action under this chapter, Chapter 3704., 3714., 42250
3734., or 6111. of the Revised Code, or a rule adopted under any 42251
of them, in connection with a violation of rules adopted under 42252
division (F) of section 3704.03 of the Revised Code. 42253

As used in this division, "actual construction of the source" 42254
means the initiation of physical on-site construction activities 42255
in connection with improvements to the source that are permanent 42256
in nature, including, without limitation, the installation of 42257
building supports and foundations and the laying of underground 42258
pipework. 42259

(K) Fifty (1) Money received under division (B) of this 42260
section shall be deposited in the state treasury to the credit of 42261
the Title V clean air fund created in section 3704.035 of the 42262

Revised Code. Annually, fifty cents per ton of each fee assessed 42263
under division ~~(C)~~(B) of this section on actual emissions from a 42264
source and received by the environmental protection agency 42265
pursuant to that division shall be ~~deposited into~~ transferred 42266
using an interstate transfer voucher to the state treasury to the 42267
credit of the small business assistance fund created in section 42268
3706.19 of the Revised Code. ~~The remainder of the moneys~~ In 42269
addition, annually, the amount of money necessary for the 42270
operation of the office of ombudsperson as determined under 42271
division (B) of that section shall be transferred to the state 42272
treasury to the credit of the small business ombudsperson fund 42273
created by that section. 42274

(2) Money received by the ~~division pursuant to that division~~ 42275
and moneys received by the agency pursuant to divisions (D), (F), 42276
(G), (H), (I), and (J) of this section shall be deposited in the 42277
state treasury to the credit of the non-Title V clean air fund 42278
created in section 3704.035 of the Revised Code. 42279

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 42280
or (c) of this section, a person issued a water discharge permit 42281
or renewal of a water discharge permit pursuant to Chapter 6111. 42282
of the Revised Code shall pay a fee based on each point source to 42283
which the issuance is applicable in accordance with the following 42284
schedule: 42285

| Design flow discharge (gallons per day) | Fee | |
|---|------|-------|
| 0 to 1000 | \$ 0 | 42287 |
| 1,001 to 5000 | 100 | 42288 |
| 5,001 to 50,000 | 200 | 42289 |
| 50,001 to 100,000 | 300 | 42290 |
| 100,001 to 300,000 | 525 | 42291 |
| over 300,000 | 750 | 42292 |

(b) Notwithstanding the fee schedule specified in division 42293
(L)(1)(a) of this section, the fee for a water discharge permit 42294

that is applicable to coal mining operations regulated under 42295
Chapter 1513. of the Revised Code shall be two hundred fifty 42296
dollars per mine. 42297

(c) Notwithstanding the fee schedule specified in division 42298
(L)(1)(a) of this section, the fee for a water discharge permit 42299
for a public discharger identified by I in the third character of 42300
the permittee's NPDES permit number shall not exceed seven hundred 42301
fifty dollars. 42302

(2) A person applying for a plan approval for a wastewater 42303
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 42304
of the Revised Code shall pay a fee of one hundred dollars plus 42305
sixty-five one-hundredths of one per cent of the estimated project 42306
cost through June 30, 2014, and one hundred dollars plus 42307
two-tenths of one per cent of the estimated project cost on and 42308
after July 1, 2014, except that the total fee shall not exceed 42309
fifteen thousand dollars through June 30, 2014, and five thousand 42310
dollars on and after July 1, 2014. The fee shall be paid at the 42311
time the application is submitted. 42312

(3) A person issued a modification of a water discharge 42313
permit shall pay a fee equal to one-half the fee that otherwise 42314
would be charged for a water discharge permit, except that the fee 42315
for the modification shall not exceed four hundred dollars. 42316

(4) A person who has entered into an agreement with the 42317
director under section 6111.14 of the Revised Code shall pay an 42318
administrative service fee for each plan submitted under that 42319
section for approval that shall not exceed the minimum amount 42320
necessary to pay administrative costs directly attributable to 42321
processing plan approvals. The director annually shall calculate 42322
the fee and shall notify all persons who have entered into 42323
agreements under that section, or who have applied for agreements, 42324
of the amount of the fee. 42325

(5)(a)(i) Not later than January 30, 2012, and January 30, 2013, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The

annual discharge fee may be prorated for a new source as described 42358
in division (L)(5)(a)(ii) of this section. 42359

(b) An NPDES permit holder that is a public discharger shall 42360
pay the fee specified in the following schedule: 42361

| Average daily | Fee due by | |
|---------------------------|------------------|-------|
| discharge flow | January 30, | |
| | 2012, and | |
| | January 30, 2013 | |
| 5,000 to 49,999 | \$ 200 | 42366 |
| 50,000 to 100,000 | 500 | 42367 |
| 100,001 to 250,000 | 1,050 | 42368 |
| 250,001 to 1,000,000 | 2,600 | 42369 |
| 1,000,001 to 5,000,000 | 5,200 | 42370 |
| 5,000,001 to 10,000,000 | 10,350 | 42371 |
| 10,000,001 to 20,000,000 | 15,550 | 42372 |
| 20,000,001 to 50,000,000 | 25,900 | 42373 |
| 50,000,001 to 100,000,000 | 41,400 | 42374 |
| 100,000,001 or more | 62,100 | 42375 |

Public dischargers owning or operating two or more publicly 42376
owned treatment works serving the same political subdivision, as 42377
"treatment works" is defined in section 6111.01 of the Revised 42378
Code, and that serve exclusively political subdivisions having a 42379
population of fewer than one hundred thousand shall pay an annual 42380
discharge fee under division (L)(5)(b) of this section that is 42381
based on the combined average daily discharge flow of the 42382
treatment works. 42383

(c) An NPDES permit holder that is an industrial discharger, 42384
other than a coal mining operator identified by P in the third 42385
character of the permittee's NPDES permit number, shall pay the 42386
fee specified in the following schedule: 42387

| Average daily | Fee due by | |
|----------------|-------------|--|
| discharge flow | January 30, | |

| | 2012, and | 42390 |
|----------------------------|------------------|-------|
| | January 30, 2013 | 42391 |
| 5,000 to 49,999 | \$ 250 | 42392 |
| 50,000 to 250,000 | 1,200 | 42393 |
| 250,001 to 1,000,000 | 2,950 | 42394 |
| 1,000,001 to 5,000,000 | 5,850 | 42395 |
| 5,000,001 to 10,000,000 | 8,800 | 42396 |
| 10,000,001 to 20,000,000 | 11,700 | 42397 |
| 20,000,001 to 100,000,000 | 14,050 | 42398 |
| 100,000,001 to 250,000,000 | 16,400 | 42399 |
| 250,000,001 or more | 18,700 | 42400 |

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, 2012, and not later than January 30, 2013. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, 2012, and not later than January 30, 2013. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water

discharge fee of one hundred dollars per square mile of area 42422
permitted. The fee shall not exceed ten thousand dollars and shall 42423
be payable on or before January 30, 2004, and the thirtieth day of 42424
January of each year thereafter. Any person who fails to pay the 42425
fee on the date specified in division (L)(6) of this section shall 42426
pay an additional amount per year equal to ten per cent of the 42427
annual fee that is unpaid. 42428

(7) The director shall transmit all moneys collected under 42429
division (L) of this section to the treasurer of state for deposit 42430
into the state treasury to the credit of the surface water 42431
protection fund created in section 6111.038 of the Revised Code. 42432

(8) As used in division (L) of this section: 42433

(a) "NPDES" means the federally approved national pollutant 42434
discharge elimination system program for issuing, modifying, 42435
revoking, reissuing, terminating, monitoring, and enforcing 42436
permits and imposing and enforcing pretreatment requirements under 42437
Chapter 6111. of the Revised Code and rules adopted under it. 42438

(b) "Public discharger" means any holder of an NPDES permit 42439
identified by P in the second character of the NPDES permit number 42440
assigned by the director. 42441

(c) "Industrial discharger" means any holder of an NPDES 42442
permit identified by I in the second character of the NPDES permit 42443
number assigned by the director. 42444

(d) "Major discharger" means any holder of an NPDES permit 42445
classified as major by the regional administrator of the United 42446
States environmental protection agency in conjunction with the 42447
director. 42448

(M) Through June 30, 2014, a person applying for a license or 42449
license renewal to operate a public water system under section 42450
6109.21 of the Revised Code shall pay the appropriate fee 42451
established under this division at the time of application to the 42452

director. Any person who fails to pay the fee at that time shall 42453
pay an additional amount that equals ten per cent of the required 42454
fee. The director shall transmit all moneys collected under this 42455
division to the treasurer of state for deposit into the drinking 42456
water protection fund created in section 6109.30 of the Revised 42457
Code. 42458

Except as provided in division (M)(4) of this section, fees 42459
required under this division shall be calculated and paid in 42460
accordance with the following schedule: 42461

(1) For the initial license required under ~~division (A)(1) of~~ 42462
section 6109.21 of the Revised Code for any public water system 42463
that is a community water system as defined in section 6109.01 of 42464
the Revised Code, and for each license renewal required for such a 42465
system prior to January 31, 2014, the fee is: 42466

| Number of service connections | Fee amount | |
|-------------------------------|-----------------------------|-------|
| Not more than 49 | \$ 112 | 42467 |
| 50 to 99 | 176 | 42468 |
| Number of service connections | Average cost per connection | |
| 100 to 2,499 | \$ 1.92 | 42469 |
| 2,500 to 4,999 | 1.48 | 42470 |
| 5,000 to 7,499 | 1.42 | 42471 |
| 7,500 to 9,999 | 1.34 | 42472 |
| 10,000 to 14,999 | 1.16 | 42473 |
| 15,000 to 24,999 | 1.10 | 42474 |
| 25,000 to 49,999 | 1.04 | 42475 |
| 50,000 to 99,999 | .92 | 42476 |
| 100,000 to 149,999 | .86 | 42477 |
| 150,000 to 199,999 | .80 | 42478 |
| 200,000 or more | .76 | 42479 |

A public water system may determine how it will pay the total 42480
amount of the fee calculated under division (M)(1) of this 42481
section, including the assessment of additional user fees that may 42482

be assessed on a volumetric basis. 42485

As used in division (M)(1) of this section, "service 42486
connection" means the number of active or inactive pipes, 42487
goosenecks, pigtails, and any other fittings connecting a water 42488
main to any building outlet. 42489

(2) For the initial license required under ~~division (A)(2) of~~ 42490
section 6109.21 of the Revised Code for any public water system 42491
that is not a community water system and serves a nontransient 42492
population, and for each license renewal required for such a 42493
system prior to January 31, 2014, the fee is: 42494

| Population served | Fee amount | |
|-------------------|------------|-------|
| Fewer than 150 | \$ 112 | 42496 |
| 150 to 299 | 176 | 42497 |
| 300 to 749 | 384 | 42498 |
| 750 to 1,499 | 628 | 42499 |
| 1,500 to 2,999 | 1,268 | 42500 |
| 3,000 to 7,499 | 2,816 | 42501 |
| 7,500 to 14,999 | 5,510 | 42502 |
| 15,000 to 22,499 | 9,048 | 42503 |
| 22,500 to 29,999 | 12,430 | 42504 |
| 30,000 or more | 16,820 | 42505 |

As used in division (M)(2) of this section, "population 42506
served" means the total number of individuals having access to the 42507
water supply during a twenty-four-hour period for at least sixty 42508
days during any calendar year. In the absence of a specific 42509
population count, that number shall be calculated at the rate of 42510
three individuals per service connection. 42511

(3) For the initial license required under ~~division (A)(3) of~~ 42512
section 6109.21 of the Revised Code for any public water system 42513
that is not a community water system and serves a transient 42514
population, and for each license renewal required for such a 42515
system prior to January 31, 2014, the fee is: 42516

| | | |
|--|------------|-------|
| Number of wells or sources, other | Fee amount | 42517 |
| than surface water, supplying system | | |
| 1 | \$112 | 42518 |
| 2 | 112 | 42519 |
| 3 | 176 | 42520 |
| 4 | 278 | 42521 |
| 5 | 568 | 42522 |
| System designated as using a | | 42523 |
| surface water source | 792 | 42524 |
| As used in division (M)(3) of this section, "number of wells | | 42525 |
| or sources, other than surface water, supplying system" means | | 42526 |
| those wells or sources that are physically connected to the | | 42527 |
| plumbing system serving the public water system. | | 42528 |
| (4) A public water system designated as using a surface water | | 42529 |
| source shall pay a fee of seven hundred ninety-two dollars or the | | 42530 |
| amount calculated under division (M)(1) or (2) of this section, | | 42531 |
| whichever is greater. | | 42532 |
| (N)(1) A person applying for a plan approval for a public | | 42533 |
| water supply system under section 6109.07 of the Revised Code | | 42534 |
| shall pay a fee of one hundred fifty dollars plus thirty-five | | 42535 |
| hundredths of one per cent of the estimated project cost, except | | 42536 |
| that the total fee shall not exceed twenty thousand dollars | | 42537 |
| through June 30, 2014, and fifteen thousand dollars on and after | | 42538 |
| July 1, 2014. The fee shall be paid at the time the application is | | 42539 |
| submitted. | | 42540 |
| (2) A person who has entered into an agreement with the | | 42541 |
| director under division (A)(2) of section 6109.07 of the Revised | | 42542 |
| Code shall pay an administrative service fee for each plan | | 42543 |
| submitted under that section for approval that shall not exceed | | 42544 |
| the minimum amount necessary to pay administrative costs directly | | 42545 |
| attributable to processing plan approvals. The director annually | | 42546 |
| shall calculate the fee and shall notify all persons that have | | 42547 |

entered into agreements under that division, or who have applied 42548
for agreements, of the amount of the fee. 42549

(3) Through June 30, 2014, the following fee, on a per survey 42550
basis, shall be charged any person for services rendered by the 42551
state in the evaluation of laboratories and laboratory personnel 42552
for compliance with accepted analytical techniques and procedures 42553
established pursuant to Chapter 6109. of the Revised Code for 42554
determining the qualitative characteristics of water: 42555

| | | |
|--------------------|---------|-------|
| microbiological | | 42556 |
| MMO-MUG | \$2,000 | 42557 |
| MF | 2,100 | 42558 |
| MMO-MUG and MF | 2,550 | 42559 |
| organic chemical | 5,400 | 42560 |
| trace metals | 5,400 | 42561 |
| standard chemistry | 2,800 | 42562 |
| limited chemistry | 1,550 | 42563 |

On and after July 1, 2014, the following fee, on a per survey 42564
basis, shall be charged any such person: 42565

| | | |
|--------------------|----------|-------|
| microbiological | \$ 1,650 | 42566 |
| organic chemicals | 3,500 | 42567 |
| trace metals | 3,500 | 42568 |
| standard chemistry | 1,800 | 42569 |
| limited chemistry | 1,000 | 42570 |

The fee for those services shall be paid at the time the request 42571
for the survey is made. Through June 30, 2014, an individual 42572
laboratory shall not be assessed a fee under this division more 42573
than once in any three-year period unless the person requests the 42574
addition of analytical methods or analysts, in which case the 42575
person shall pay eighteen hundred dollars for each additional 42576
survey requested. 42577

As used in division (N)(3) of this section: 42578

- (a) "MF" means microfiltration. 42579
- (b) "MMO" means minimal medium ONPG. 42580
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 42581
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 42582

The director shall transmit all moneys collected under this 42583
division to the treasurer of state for deposit into the drinking 42584
water protection fund created in section 6109.30 of the Revised 42585
Code. 42586

(O) Any person applying to the director ~~for~~ to take an 42587
examination for certification as an operator of a water supply 42588
system or wastewater system under Chapter 6109. or 6111. of the 42589
Revised Code that is administered by the director, at the time the 42590
application is submitted, shall pay ~~an application fee of~~ 42591
~~forty five dollars through November 30, 2014, and twenty five~~ 42592
~~dollars on and after December 1, 2014. Upon approval from the~~ 42593
~~director that the applicant is eligible to take the examination~~ 42594
~~therefor, the applicant shall pay~~ a fee in accordance with the 42595
following schedule through November 30, 2014: 42596

| | | |
|--------------------|---------------------------|-------|
| Class A operator | \$35 <u>80</u> | 42597 |
| Class I operator | 60 <u>105</u> | 42598 |
| Class II operator | 75 <u>120</u> | 42599 |
| Class III operator | 85 <u>130</u> | 42600 |
| Class IV operator | 100 <u>145</u> | 42601 |

On and after December 1, 2014, the applicant shall pay a fee 42602
in accordance with the following schedule: 42603

| | | |
|--------------------|---------------------------|-------|
| Class A operator | \$25 <u>50</u> | 42604 |
| Class I operator | \$45 <u>70</u> | 42605 |
| Class II operator | 55 <u>80</u> | 42606 |
| Class III operator | 65 <u>90</u> | 42607 |
| Class IV operator | 75 <u>100</u> | 42608 |

Any person applying to the director for certification as an 42609

operator of a water supply system or wastewater system who has 42610
passed an examination administered by an examination provider 42611
approved by the director shall pay a certification fee of 42612
forty-five dollars. 42613

A person shall pay a biennial certification renewal fee for 42614
each applicable class of certification in accordance with the 42615
following schedule: 42616

| | | |
|--------------------|------|-------|
| Class A operator | \$25 | 42617 |
| Class I operator | 35 | 42618 |
| Class II operator | 45 | 42619 |
| Class III operator | 55 | 42620 |
| Class IV operator | 65 | 42621 |

If a certification renewal fee is received by the director 42622
more than thirty days, but not more than one year after the 42623
expiration date of the certification, the person shall pay a 42624
certification renewal fee in accordance with the following 42625
schedule: 42626

| | | |
|--------------------|------|-------|
| Class A operator | \$45 | 42627 |
| Class I operator | 55 | 42628 |
| Class II operator | 65 | 42629 |
| Class III operator | 75 | 42630 |
| Class IV operator | 85 | 42631 |

A person who requests a replacement certificate shall pay a 42632
fee of twenty-five dollars at the time the request is made. 42633

Any person applying to be a water supply system or wastewater 42634
treatment system examination provider shall pay an application fee 42635
of five hundred dollars. Any person approved by the director as a 42636
water supply system or wastewater treatment system examination 42637
provider shall pay an annual fee that is equal to ten per cent of 42638
the fees that the provider assesses and collects for administering 42639
water supply system or wastewater treatment system certification 42640
examinations in this state for the calendar year. The fee shall be 42641

paid not later than forty-five days after the end of a calendar 42642
year. 42643

The director shall transmit all moneys collected under this 42644
division to the treasurer of state for deposit into the drinking 42645
water protection fund created in section 6109.30 of the Revised 42646
Code. 42647

(P) Any person submitting an application for an industrial 42648
water pollution control certificate under section 6111.31 of the 42649
Revised Code, as that section existed before its repeal by H.B. 95 42650
of the 125th general assembly, shall pay a nonrefundable fee of 42651
five hundred dollars at the time the application is submitted. The 42652
director shall transmit all moneys collected under this division 42653
to the treasurer of state for deposit into the surface water 42654
protection fund created in section 6111.038 of the Revised Code. A 42655
person paying a certificate fee under this division shall not pay 42656
an application fee under division (S)(1) of this section. On and 42657
after June 26, 2003, persons shall file such applications and pay 42658
the fee as required under sections 5709.20 to 5709.27 of the 42659
Revised Code, and proceeds from the fee shall be credited as 42660
provided in section 5709.212 of the Revised Code. 42661

(Q) Except as otherwise provided in division (R) of this 42662
section, a person issued a permit by the director for a new solid 42663
waste disposal facility other than an incineration or composting 42664
facility, a new infectious waste treatment facility other than an 42665
incineration facility, or a modification of such an existing 42666
facility that includes an increase in the total disposal or 42667
treatment capacity of the facility pursuant to Chapter 3734. of 42668
the Revised Code shall pay a fee of ten dollars per thousand cubic 42669
yards of disposal or treatment capacity, or one thousand dollars, 42670
whichever is greater, except that the total fee for any such 42671
permit shall not exceed eighty thousand dollars. A person issued a 42672
modification of a permit for a solid waste disposal facility or an 42673

infectious waste treatment facility that does not involve an 42674
increase in the total disposal or treatment capacity of the 42675
facility shall pay a fee of one thousand dollars. A person issued 42676
a permit to install a new, or modify an existing, solid waste 42677
transfer facility under that chapter shall pay a fee of two 42678
thousand five hundred dollars. A person issued a permit to install 42679
a new or to modify an existing solid waste incineration or 42680
composting facility, or an existing infectious waste treatment 42681
facility using incineration as its principal method of treatment, 42682
under that chapter shall pay a fee of one thousand dollars. The 42683
increases in the permit fees under this division resulting from 42684
the amendments made by Amended Substitute House Bill 592 of the 42685
117th general assembly do not apply to any person who submitted an 42686
application for a permit to install a new, or modify an existing, 42687
solid waste disposal facility under that chapter prior to 42688
September 1, 1987; any such person shall pay the permit fee 42689
established in this division as it existed prior to June 24, 1988. 42690
In addition to the applicable permit fee under this division, a 42691
person issued a permit to install or modify a solid waste facility 42692
or an infectious waste treatment facility under that chapter who 42693
fails to pay the permit fee to the director in compliance with 42694
division (V) of this section shall pay an additional ten per cent 42695
of the amount of the fee for each week that the permit fee is 42696
late. 42697

Permit and late payment fees paid to the director under this 42698
division shall be credited to the general revenue fund. 42699

(R)(1) A person issued a registration certificate for a scrap 42700
tire collection facility under section 3734.75 of the Revised Code 42701
shall pay a fee of two hundred dollars, except that if the 42702
facility is owned or operated by a motor vehicle salvage dealer 42703
licensed under Chapter 4738. of the Revised Code, the person shall 42704
pay a fee of twenty-five dollars. 42705

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(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.

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage

fee shall not exceed three hundred dollars. In addition, any 42769
person applying for a national pollutant discharge elimination 42770
system general storm water industrial permit shall pay a 42771
nonrefundable fee of one hundred fifty dollars at the time the 42772
application is submitted. 42773

The director shall transmit all moneys collected under 42774
division (S)(1) of this section pursuant to Chapter 6109. of the 42775
Revised Code to the treasurer of state for deposit into the 42776
drinking water protection fund created in section 6109.30 of the 42777
Revised Code. 42778

The director shall transmit all moneys collected under 42779
division (S)(1) of this section pursuant to Chapter 6111. of the 42780
Revised Code and under division (S)(3) of this section to the 42781
treasurer of state for deposit into the surface water protection 42782
fund created in section 6111.038 of the Revised Code. 42783

If a registration certificate is issued under section 42784
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 42785
the application fee paid shall be deducted from the amount of the 42786
registration certificate fee due under division (R)(1), (2), or 42787
(5) of this section, as applicable. 42788

If a person submits an electronic application for a 42789
registration certificate, permit, variance, or plan approval for 42790
which an application fee is established under division (S)(1) of 42791
this section, the person shall pay the applicable application fee 42792
as expeditiously as possible after the submission of the 42793
electronic application. An application for a registration 42794
certificate, permit, variance, or plan approval for which an 42795
application fee is established under division (S)(1) of this 42796
section shall not be reviewed or processed until the applicable 42797
application fee, and any other fees established under this 42798
division, are paid. 42799

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(3) A person applying for coverage under a national pollutant discharge elimination system general discharge permit for household sewage treatment systems shall pay the following fees:

(a) A nonrefundable fee of two hundred dollars at the time of application for initial permit coverage;

(b) A nonrefundable fee of one hundred dollars at the time of application for a renewal of permit coverage.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter

6111. of the Revised Code to the treasurer of state for deposit 42831
into the surface water protection fund created in section 6111.038 42832
of the Revised Code. 42833

(2) Exempt the state and political subdivisions thereof, 42834
including education facilities or medical facilities owned by the 42835
state or a political subdivision, or any person exempted from 42836
taxation by section 5709.07 or 5709.12 of the Revised Code, from 42837
any fee required by this section; 42838

(3) Provide for the waiver of any fee, or any part thereof, 42839
otherwise required by this section whenever the director 42840
determines that the imposition of the fee would constitute an 42841
unreasonable cost of doing business for any applicant, class of 42842
applicants, or other person subject to the fee; 42843

(4) Prescribe measures that the director considers necessary 42844
to carry out this section. 42845

(U) When the director reasonably demonstrates that the direct 42846
cost to the state associated with the issuance of a permit to 42847
install, license, variance, plan approval, or certification 42848
exceeds the fee for the issuance or review specified by this 42849
section, the director may condition the issuance or review on the 42850
payment by the person receiving the issuance or review of, in 42851
addition to the fee specified by this section, the amount, or any 42852
portion thereof, in excess of the fee specified under this 42853
section. The director shall not so condition issuances for which 42854
~~fees are a fee is~~ prescribed in ~~divisions (B)(7) and division~~ 42855
(L)(1)(b) of this section. 42856

(V) Except as provided in divisions (L), (M), and (P) of this 42857
section or unless otherwise prescribed by a rule of the director 42858
adopted pursuant to Chapter 119. of the Revised Code, all fees 42859
required by this section are payable within thirty days after the 42860
issuance of an invoice for the fee by the director or the 42861

effective date of the issuance of the license, permit, variance, 42862
plan approval, or certification. If payment is late, the person 42863
responsible for payment of the fee shall pay an additional ten per 42864
cent of the amount due for each month that it is late. 42865

(W) As used in this section, "fuel-burning equipment," 42866
"fuel-burning equipment input capacity," "incinerator," 42867
"incinerator input capacity," "process," "process weight rate," 42868
"storage tank," "gasoline dispensing facility," "dry cleaning 42869
facility," "design flow discharge," and "new source treatment 42870
works" have the meanings ascribed to those terms by applicable 42871
rules or standards adopted by the director under Chapter 3704. or 42872
6111. of the Revised Code. 42873

(X) As used in divisions (B), ~~(C)~~, (D), (E), (F), (H), (I), 42874
and (J) of this section, and in any other provision of this 42875
section pertaining to fees paid pursuant to Chapter 3704. of the 42876
Revised Code: 42877

(1) "Facility," "federal Clean Air Act," "person," and "Title 42878
V permit" have the same meanings as in section 3704.01 of the 42879
Revised Code. 42880

(2) "Title V permit program" means the following activities 42881
as necessary to meet the requirements of Title V of the federal 42882
Clean Air Act and 40 C.F.R. part 70, including at least: 42883

(a) Preparing and adopting, if applicable, generally 42884
applicable rules or guidance regarding the permit program or its 42885
implementation or enforcement; 42886

(b) Reviewing and acting on any application for a Title V 42887
permit, permit revision, or permit renewal, including the 42888
development of an applicable requirement as part of the processing 42889
of a permit, permit revision, or permit renewal; 42890

(c) Administering the permit program, including the 42891
supporting and tracking of permit applications, compliance 42892

| | |
|---|--|
| certification, and related data entry; | 42893 |
| (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; | 42894 42895 42896 |
| (e) Emission and ambient monitoring; | 42897 |
| (f) Modeling, analyses, or demonstrations; | 42898 |
| (g) Preparing inventories and tracking emissions; | 42899 |
| (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. | 42900 42901 42902 42903 42904 42905 42906 |
| (Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due. | 42907 42908 42909 42910 42911 42912 42913 42914 42915 42916 |
| (2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars. | 42917 42918 42919 |
| (b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry | 42920 42921 42922 |

ton of exceptional quality sludge than the fee assessed under 42923
division (Y)(1) of this section, subject to the following 42924
exceptions: 42925

(i) Except as provided in division (Y)(2)(d) of this section, 42926
a sewage sludge facility that treats or disposes of exceptional 42927
quality sludge shall pay a minimum annual sewage sludge fee of one 42928
hundred dollars. 42929

(ii) A sewage sludge facility that treats or disposes of 42930
exceptional quality sludge shall not be required to pay the annual 42931
sludge fee for treatment or disposal in this state of exceptional 42932
quality sludge generated outside of this state and contained in 42933
bags or other containers not greater than one hundred pounds in 42934
capacity. 42935

A thirty-five per cent reduction for exceptional quality 42936
sludge applies to the maximum annual fees established under 42937
division (Y)(3) of this section. 42938

(c) A sewage sludge facility that transfers sewage sludge to 42939
another sewage sludge facility in this state for further treatment 42940
prior to disposal in this state shall not be required to pay the 42941
annual sludge fee for the tons of sewage sludge that have been 42942
transferred. In such a case, the sewage sludge facility that 42943
disposes of the sewage sludge shall pay the annual sludge fee. 42944
However, the facility transferring the sewage sludge shall pay the 42945
one-hundred-dollar minimum fee required under division (Y)(2)(a) 42946
of this section. 42947

In the case of a sewage sludge facility that treats sewage 42948
sludge in this state and transfers it out of this state to another 42949
entity for disposal, the sewage sludge facility in this state 42950
shall be required to pay the annual sludge fee for the tons of 42951
sewage sludge that have been transferred. 42952

(d) A sewage sludge facility that generates sewage sludge 42953

resulting from an average daily discharge flow of less than five 42954
thousand gallons per day is not subject to the fees assessed under 42955
division (Y) of this section. 42956

(3) No sewage sludge facility required to pay the annual 42957
sludge fee shall be required to pay more than the maximum annual 42958
fee for each disposal method that the sewage sludge facility uses. 42959
The maximum annual fee does not include the additional amount that 42960
may be charged under division (Y)(5) of this section for late 42961
payment of the annual sludge fee. The maximum annual fee for the 42962
following methods of disposal of sewage sludge is as follows: 42963

(a) Incineration: five thousand dollars; 42964

(b) Preexisting land reclamation project or disposal in a 42965
landfill: five thousand dollars; 42966

(c) Land application, land reclamation, surface disposal, or 42967
any other disposal method not specified in division (Y)(3)(a) or 42968
(b) of this section: twenty thousand dollars. 42969

(4)(a) In the case of an entity that generates sewage sludge 42970
or a sewage sludge facility that treats sewage sludge and 42971
transfers the sewage sludge to an incineration facility for 42972
disposal, the incineration facility, and not the entity generating 42973
the sewage sludge or the sewage sludge facility treating the 42974
sewage sludge, shall pay the annual sludge fee for the tons of 42975
sewage sludge that are transferred. However, the entity or 42976
facility generating or treating the sewage sludge shall pay the 42977
one-hundred-dollar minimum fee required under division (Y)(2)(a) 42978
of this section. 42979

(b) In the case of an entity that generates sewage sludge and 42980
transfers the sewage sludge to a landfill for disposal or to a 42981
sewage sludge facility for land reclamation or surface disposal, 42982
the entity generating the sewage sludge, and not the landfill or 42983
sewage sludge facility, shall pay the annual sludge fee for the 42984

tons of sewage sludge that are transferred. 42985

(5) Not later than the first day of April of the calendar 42986
year following March 17, 2000, and each first day of April 42987
thereafter, the director shall issue invoices to persons who are 42988
required to pay the annual sludge fee. The invoice shall identify 42989
the nature and amount of the annual sludge fee assessed and state 42990
the first day of May as the deadline for receipt by the director 42991
of objections regarding the amount of the fee and the first day of 42992
July as the deadline for payment of the fee. 42993

Not later than the first day of May following receipt of an 42994
invoice, a person required to pay the annual sludge fee may submit 42995
objections to the director concerning the accuracy of information 42996
regarding the number of dry tons of sewage sludge used to 42997
calculate the amount of the annual sludge fee or regarding whether 42998
the sewage sludge qualifies for the exceptional quality sludge 42999
discount established in division (Y)(2)(b) of this section. The 43000
director may consider the objections and adjust the amount of the 43001
fee to ensure that it is accurate. 43002

If the director does not adjust the amount of the annual 43003
sludge fee in response to a person's objections, the person may 43004
appeal the director's determination in accordance with Chapter 43005
119. of the Revised Code. 43006

Not later than the first day of June, the director shall 43007
notify the objecting person regarding whether the director has 43008
found the objections to be valid and the reasons for the finding. 43009
If the director finds the objections to be valid and adjusts the 43010
amount of the annual sludge fee accordingly, the director shall 43011
issue with the notification a new invoice to the person 43012
identifying the amount of the annual sludge fee assessed and 43013
stating the first day of July as the deadline for payment. 43014

Not later than the first day of July, any person who is 43015

required to do so shall pay the annual sludge fee. Any person who 43016
is required to pay the fee, but who fails to do so on or before 43017
that date shall pay an additional amount that equals ten per cent 43018
of the required annual sludge fee. 43019

(6) The director shall transmit all moneys collected under 43020
division (Y) of this section to the treasurer of state for deposit 43021
into the surface water protection fund created in section 6111.038 43022
of the Revised Code. The moneys shall be used to defray the costs 43023
of administering and enforcing provisions in Chapter 6111. of the 43024
Revised Code and rules adopted under it that govern the use, 43025
storage, treatment, or disposal of sewage sludge. 43026

(7) Beginning in fiscal year 2001, and every two years 43027
thereafter, the director shall review the total amount of moneys 43028
generated by the annual sludge fees to determine if that amount 43029
exceeded six hundred thousand dollars in either of the two 43030
preceding fiscal years. If the total amount of moneys in the fund 43031
exceeded six hundred thousand dollars in either fiscal year, the 43032
director, after review of the fee structure and consultation with 43033
affected persons, shall issue an order reducing the amount of the 43034
fees levied under division (Y) of this section so that the 43035
estimated amount of moneys resulting from the fees will not exceed 43036
six hundred thousand dollars in any fiscal year. 43037

If, upon review of the fees under division (Y)(7) of this 43038
section and after the fees have been reduced, the director 43039
determines that the total amount of moneys collected and 43040
accumulated is less than six hundred thousand dollars, the 43041
director, after review of the fee structure and consultation with 43042
affected persons, may issue an order increasing the amount of the 43043
fees levied under division (Y) of this section so that the 43044
estimated amount of moneys resulting from the fees will be 43045
approximately six hundred thousand dollars. Fees shall never be 43046
increased to an amount exceeding the amount specified in division 43047

(Y)(7) of this section. 43048

Notwithstanding section 119.06 of the Revised Code, the 43049
director may issue an order under division (Y)(7) of this section 43050
without the necessity to hold an adjudicatory hearing in 43051
connection with the order. The issuance of an order under this 43052
division is not an act or action for purposes of section 3745.04 43053
of the Revised Code. 43054

(8) As used in division (Y) of this section: 43055

(a) "Sewage sludge facility" means an entity that performs 43056
treatment on or is responsible for the disposal of sewage sludge. 43057

(b) "Sewage sludge" means a solid, semi-solid, or liquid 43058
residue generated during the treatment of domestic sewage in a 43059
treatment works as defined in section 6111.01 of the Revised Code. 43060
"Sewage sludge" includes, but is not limited to, scum or solids 43061
removed in primary, secondary, or advanced wastewater treatment 43062
processes. "Sewage sludge" does not include ash generated during 43063
the firing of sewage sludge in a sewage sludge incinerator, grit 43064
and screenings generated during preliminary treatment of domestic 43065
sewage in a treatment works, animal manure, residue generated 43066
during treatment of animal manure, or domestic septage. 43067

(c) "Exceptional quality sludge" means sewage sludge that 43068
meets all of the following qualifications: 43069

(i) Satisfies the class A pathogen standards in 40 C.F.R. 43070
503.32(a); 43071

(ii) Satisfies one of the vector attraction reduction 43072
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 43073

(iii) Does not exceed the ceiling concentration limitations 43074
for metals listed in table one of 40 C.F.R. 503.13; 43075

(iv) Does not exceed the concentration limitations for metals 43076
listed in table three of 40 C.F.R. 503.13. 43077

(d) "Treatment" means the preparation of sewage sludge for 43078
final use or disposal and includes, but is not limited to, 43079
thickening, stabilization, and dewatering of sewage sludge. 43080

(e) "Disposal" means the final use of sewage sludge, 43081
including, but not limited to, land application, land reclamation, 43082
surface disposal, or disposal in a landfill or an incinerator. 43083

(f) "Land application" means the spraying or spreading of 43084
sewage sludge onto the land surface, the injection of sewage 43085
sludge below the land surface, or the incorporation of sewage 43086
sludge into the soil for the purposes of conditioning the soil or 43087
fertilizing crops or vegetation grown in the soil. 43088

(g) "Land reclamation" means the returning of disturbed land 43089
to productive use. 43090

(h) "Surface disposal" means the placement of sludge on an 43091
area of land for disposal, including, but not limited to, 43092
monofills, surface impoundments, lagoons, waste piles, or 43093
dedicated disposal sites. 43094

(i) "Incinerator" means an entity that disposes of sewage 43095
sludge through the combustion of organic matter and inorganic 43096
matter in sewage sludge by high temperatures in an enclosed 43097
device. 43098

(j) "Incineration facility" includes all incinerators owned 43099
or operated by the same entity and located on a contiguous tract 43100
of land. Areas of land are considered to be contiguous even if 43101
they are separated by a public road or highway. 43102

(k) "Annual sludge fee" means the fee assessed under division 43103
(Y)(1) of this section. 43104

(l) "Landfill" means a sanitary landfill facility, as defined 43105
in rules adopted under section 3734.02 of the Revised Code, that 43106
is licensed under section 3734.05 of the Revised Code. 43107

(m) "Preexisting land reclamation project" means a 43108
property-specific land reclamation project that has been in 43109
continuous operation for not less than five years pursuant to 43110
approval of the activity by the director and includes the 43111
implementation of a community outreach program concerning the 43112
activity. 43113

Sec. 3745.112. During the month of August 1997, and 43114
biennially thereafter, the director of environmental protection 43115
shall enter into a contract for the performance of an independent 43116
evaluation of the Title V permit program to be conducted under the 43117
supervision of an independent certified public accountant. The 43118
evaluation shall review the finances, operations, revenues, costs, 43119
and expenditures of the Title V permit program under section 43120
3704.036 of the Revised Code and the Title V clean air fund 43121
created in section 3704.035 of the Revised Code. The findings of 43122
each such evaluation shall be set forth in a written report that 43123
shall include, without limitation, all of the following: 43124

(A) A review and analysis of all expenditures from the Title 43125
V clean air fund for the Title V permit program; 43126

(B) A review and analysis of all costs incurred by the 43127
environmental protection agency designated by the director to be 43128
costs of the Title V permit program; 43129

(C) A review and analysis of all expenditures from the Title 43130
V clean air fund for costs not designated by the director as costs 43131
of the Title V permit program; 43132

(D) A review and analysis of the adequacy of the fees 43133
assessed under division ~~(C)~~(B) of section 3745.11 for meeting the 43134
costs of the Title V permit program during the period reviewed by 43135
the evaluation. 43136

Upon completion of the written report of each evaluation 43137

required by this section, the director shall provide copies of the 43138
report to the governor and the general assembly and shall make 43139
copies of it available to the public. 43140

The reasonable and necessary expenses for conducting an 43141
evaluation required under this section are hereby deemed to be 43142
reasonable costs to administer the Title V permit program and 43143
shall be paid from moneys credited to the Title V clean air fund 43144
arising from the fees assessed under division ~~(C)~~(B) of section 43145
3745.11 of the Revised Code. 43146

Sec. 3748.04. The ~~public director of health council~~, in 43147
accordance with Chapter 119. of the Revised Code, shall adopt and 43148
may amend or rescind rules doing all of the following: 43149

(A) Listing types of radioactive material for which licensure 43150
by its handler is required and types of radiation-generating 43151
equipment for which registration by its handler is required, and 43152
establishing requirements governing them. Rules adopted under 43153
division (A) of this section shall be compatible with applicable 43154
federal regulations and shall establish all of the following, 43155
without limitation: 43156

(1) Requirements governing both of the following: 43157

(a) The licensing and inspection of handlers of radioactive 43158
material. Standards established in rules adopted under division 43159
(A)(1)(a) of this section regarding byproduct material or any 43160
activity that results in the production of that material, to the 43161
extent practicable, shall be equivalent to or more stringent than 43162
applicable standards established by the United States nuclear 43163
regulatory commission. 43164

(b) The registration and inspection of handlers of 43165
radiation-generating equipment. Standards established in rules 43166
adopted under division (A)(1)(b) of this section, to the extent 43167

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| practicable, shall be equivalent to applicable standards | 43168 |
| established by the food and drug administration in the United | 43169 |
| States department of health and human services. | 43170 |
| (2) Identification of and requirements governing possession | 43171 |
| and use of specifically licensed and generally licensed quantities | 43172 |
| of radioactive material as either sealed sources or unsealed | 43173 |
| sources; | 43174 |
| (3) A procedure for the issuance of and the frequency of | 43175 |
| renewal of the licenses of handlers of radioactive material, other | 43176 |
| than a license for a facility for the disposal of low-level | 43177 |
| radioactive waste, and of the certificates of registration of | 43178 |
| handlers of radiation-generating equipment; | 43179 |
| (4) Procedures for suspending and revoking the licenses of | 43180 |
| handlers of radioactive material and the certificates of | 43181 |
| registration of handlers of radiation-generating equipment; | 43182 |
| (5) Criteria to be used by the director of health in amending | 43183 |
| the license of a handler of radioactive material or the | 43184 |
| certificate of registration of a handler of radiation-generating | 43185 |
| equipment subsequent to its issuance; | 43186 |
| (6) Criteria for achieving and maintaining compliance with | 43187 |
| this chapter and rules adopted under it by licensees and | 43188 |
| registrants; | 43189 |
| (7) Criteria governing environmental monitoring of licensed | 43190 |
| and registered activities to assess compliance with this chapter | 43191 |
| and rules adopted under it; | 43192 |
| (8) Fees for both of the following: | 43193 |
| (a) The licensing of handlers, other than facilities for the | 43194 |
| disposal of low-level radioactive waste, of radioactive material; | 43195 |
| (b) The registration of handlers, other than facilities that | 43196 |
| are, or are operated by, medical practitioners or | 43197 |

medical-practitioner groups, of radiation-generating equipment. 43198

(9) A fee schedule for both of the following that includes 43199
fees for reviews, conducted during an inspection, of shielding 43200
plans or the adequacy of shielding: 43201

(a) The inspection of handlers of radioactive material; 43202

(b) The inspection of handlers, other than facilities that 43203
are, or are operated by, medical practitioners or 43204
medical-practitioner groups, of radiation-generating equipment. 43205

(B)(1) Identifying sources of radiation, circumstances of 43206
possession, use, or disposal of sources of radiation, and levels 43207
of radiation that constitute an unreasonable or unnecessary risk 43208
to human health or the environment; 43209

(2) Establishing requirements for the achievement and 43210
maintenance of compliance with standards for the receipt, 43211
possession, use, storage, installation, transfer, servicing, and 43212
disposal of sources of radiation to prevent levels of radiation 43213
that constitute an unreasonable or unnecessary risk to human 43214
health or the environment; 43215

(3) Requiring the maintenance of records on the receipt, use, 43216
storage, transfer, and disposal of radioactive material and on the 43217
radiological safety aspects of the use and maintenance of 43218
radiation-generating equipment. 43219

In adopting rules under divisions (A) and (B) of this 43220
section, the ~~council~~ director shall use standards no less 43221
stringent than the "suggested state regulations for control of 43222
radiation" prepared by the conference of radiation control program 43223
directors, inc., and regulations adopted by the United States 43224
nuclear regulatory commission, the United States environmental 43225
protection agency, and the United States department of health and 43226
human services and shall consider reports of the national council 43227
on radiation protection and measurement and the relevant standards 43228

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| of the American national standards institute. | 43229 |
| (C) Establishing fees, procedures, and requirements for certification as a radiation expert, including all of the following, without limitation: | 43230 |
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| (1) Minimum training and experience requirements; | 43233 |
| (2) Procedures for applying for certification; | 43234 |
| (3) Procedures for review of applications and issuance of certificates; | 43235 |
| | 43236 |
| (4) Procedures for suspending and revoking certification. | 43237 |
| (D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings; | 43238 |
| | 43239 |
| (E) Establishing the responsibilities of a radiation expert; | 43240 |
| (F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment; | 43241 |
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| (G) Establishing fees to be paid by any facility that, on September 8, 1995, holds a license from the United States nuclear regulatory commission in order to provide moneys necessary for the transfer of licensing and other regulatory authority from the commission to the state pursuant to section 3748.03 of the Revised Code. Rules adopted under this division shall stipulate that fees so established do not apply to any functions dealing specifically with a facility for the disposal of low-level radioactive waste. Fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. | 43244 |
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| (H) Establishing fees to be collected annually from generators of low-level radioactive waste, which shall be based | 43257 |
| | 43258 |

upon the volume and radioactivity of the waste generated and the 43259
costs of administering low-level radioactive waste management 43260
activities under this chapter and rules adopted under it. All fees 43261
collected under this division shall be deposited into the state 43262
treasury to the credit of the general operations fund created in 43263
section 3701.83 of the Revised Code. The fees shall be used solely 43264
to administer and enforce this chapter and rules adopted under it. 43265
Any fee required under this division that ~~has not been paid within~~ 43266
~~ninety days~~ remains unpaid on the ninety-first day after the 43267
original invoice date shall be assessed ~~at two times~~ an additional 43268
amount equal to ten per cent of the original ~~invoiced~~ fee. ~~Any fee~~ 43269
~~that has not been paid within one hundred eighty days after the~~ 43270
~~invoice date shall be assessed at five times the original invoiced~~ 43271
~~fee.~~ 43272

(I) Establishing requirements governing closure, 43273
decontamination, decommissioning, reclamation, and long-term 43274
surveillance and care of a facility licensed under this chapter 43275
and rules adopted under it. Rules adopted under division (I) of 43276
this section shall include, without limitation, all of the 43277
following: 43278

(1) Standards and procedures to ensure that a licensee 43279
prepares a decommissioning funding plan that provides an adequate 43280
financial guaranty to permit the completion of all requirements 43281
governing the closure, decontamination, decommissioning, and 43282
reclamation of sites, structures, and equipment used in 43283
conjunction with a licensed activity; 43284

(2) For licensed activities where radioactive material that 43285
will require surveillance or care is likely to remain at the site 43286
after the licensed activities cease, as indicated in the 43287
application for the license submitted under section 3748.07 of the 43288
Revised Code, standards and procedures to ensure that the licensee 43289
prepares an additional decommissioning funding plan for long-term 43290

surveillance and care, before termination of the license, that 43291
provides an additional adequate financial guaranty as necessary to 43292
provide for that surveillance and care; 43293

(3) For the purposes of the decommissioning funding plans 43294
required in rules adopted under divisions (I)(1) and (2) of this 43295
section, the types of acceptable financial guaranties, which shall 43296
include bonds issued by fidelity or surety companies authorized to 43297
do business in the state, certificates of deposit, deposits of 43298
government securities, irrevocable letters or lines of credit, 43299
trust funds, escrow accounts, or other similar types of 43300
arrangements, but shall not include any arrangement that 43301
constitutes self-insurance; 43302

(4) A requirement that the decommissioning funding plans 43303
required in rules adopted under divisions (I)(1) and (2) of this 43304
section contain financial guaranties in amounts sufficient to 43305
ensure compliance with any standards established by the United 43306
States nuclear regulatory commission, or by the state if it has 43307
become an agreement state pursuant to section 3748.03 of the 43308
Revised Code, pertaining to closure, decontamination, 43309
decommissioning, reclamation, and long-term surveillance and care 43310
of licensed activities and sites of licensees. 43311

Standards established in rules adopted under division (I) of 43312
this section regarding any activity that resulted in the 43313
production of byproduct material, as defined in division (A)(2) of 43314
section 3748.01 of the Revised Code, to the extent practicable, 43315
shall be equivalent to or more stringent than standards 43316
established by the United States nuclear regulatory commission for 43317
sites at which ores were processed primarily for their source 43318
material content and at which byproduct material, as defined in 43319
division (A)(2) of section 3748.01 of the Revised Code, is 43320
deposited. 43321

(J) Establishing criteria governing inspections of a facility 43322

for the disposal of low-level radioactive waste, including, 43323
without limitation, the establishment of a resident inspector 43324
program at such a facility; 43325

(K) Establishing requirements and procedures governing the 43326
filing of complaints under section 3748.16 of the Revised Code, 43327
including, without limitation, those governing intervention in a 43328
hearing held under division (B)(3) of that section. 43329

Sec. 3748.05. (A) The director of health shall do all of the 43330
following: 43331

(1) Administer and enforce this chapter and the rules adopted 43332
under it; 43333

(2) Collect and make available information relating to 43334
sources of radiation; 43335

(3) Ensure the review of plans and specifications, submitted 43336
in accordance with rules adopted by the ~~public health council~~ 43337
director, for the control of radiation that constitutes an 43338
unreasonable or unnecessary risk to human health or the 43339
environment; 43340

(4) Review reports of quality assurance audits performed by 43341
certified radiation experts under this chapter and the rules 43342
adopted under it; 43343

(5) Ensure that programs for the control of sources of 43344
radiation are developed with due regard for compatibility with 43345
federal programs for the regulation of byproduct, source, and 43346
special nuclear materials; 43347

(6) In accordance with Chapter 119. of the Revised Code, 43348
adopt, and subsequently may amend and rescind, rules providing for 43349
the administrative assessment and collection of monetary penalties 43350
for failure by any facility licensed under this chapter and rules 43351
adopted under it to comply with this chapter and those rules. The 43352

director may require the submission of compliance schedules and 43353
other related information. Any orders issued or payments or other 43354
requirements imposed pursuant to rules adopted under division 43355
(A)(6) of this section shall not affect any civil or criminal 43356
enforcement proceeding brought under this chapter or any other 43357
provision of state or local law. Moneys collected as 43358
administrative penalties imposed pursuant to rules adopted under 43359
division (A)(6) of this section shall be deposited in the state 43360
treasury to the credit of the general operations fund created in 43361
section 3701.83 of the Revised Code. The moneys shall be used 43362
solely to administer and enforce this chapter and the rules 43363
adopted under it. 43364

(7) Maintain files of both of the following: 43365

(a) All license and registration applications, issuances, 43366
denials, amendments, renewals, suspensions, and revocations and 43367
any administrative or judicial action pertaining to them; 43368

(b) All rules adopted under this chapter, or proposed to be 43369
adopted, relating to the regulation of sources of radiation and 43370
proceedings on them. 43371

(B) The director may do any or all of the following: 43372

(1) Advise, consult, and cooperate with other agencies of the 43373
state, the federal government, other states, interstate agencies, 43374
political subdivisions, industries, and other affected groups in 43375
furtherance of the purposes of this chapter and the rules adopted 43376
under it; 43377

(2) Accept and administer grants from the federal government 43378
and from other sources, public or private, for carrying out any of 43379
the director's functions under this chapter and the rules adopted 43380
under it; 43381

(3) Encourage, participate in, or conduct studies, 43382
investigations, training, research, and demonstrations relating to 43383

the detection and control of radiation that constitutes an 43384
unreasonable or unnecessary risk to human health or the 43385
environment, the measurement of radiation, the evaluation of 43386
potential effects on health of cumulative or acute exposure to 43387
radiation, the development and improvement of methods to limit and 43388
reduce the generation of radioactive waste, and related problems 43389
as the director considers necessary or advisable; 43390

(4) In accordance with Chapter 119. of the Revised Code, 43391
adopt rules establishing criteria under which other agencies of 43392
the state or private entities may perform inspections of x-ray 43393
equipment at registered dental facilities at the request of the 43394
facility or pursuant to contract with the department; 43395

(5) Exercise all incidental powers necessary to carry out the 43396
purposes of this chapter and the rules adopted under it, 43397
including, without limitation, the issuance of orders. 43398

Sec. 3748.07. (A) Every facility that proposes to handle 43399
radioactive material or radiation-generating equipment for which 43400
licensure or registration, respectively, by its handler is 43401
required shall apply in writing to the director of health on forms 43402
prescribed and provided by the director for licensure or 43403
registration. Terms and conditions of licenses and certificates of 43404
registration may be amended in accordance with rules adopted under 43405
section 3748.04 of the Revised Code or orders issued by the 43406
director pursuant to section 3748.05 of the Revised Code. 43407

(B)(1) An applicant proposing to handle radioactive material 43408
shall pay for a license or renewal of a license the appropriate 43409
fee specified in rules adopted under section 3748.04 of the 43410
Revised Code and listed on an invoice provided by the director. 43411
The applicant shall pay the fee on receipt of the invoice. 43412

(2)(a) Except as provided in division (B)(2)(b) of this 43413
section, until fees are established in rules adopted under 43414

division (A)(8)(b) of section 3748.04 of the Revised Code, an 43415
applicant proposing to handle radiation-generating equipment shall 43416
pay for a certificate of registration or renewal of a certificate 43417
a biennial registration fee of two hundred sixty-two dollars. 43418

Except as provided in division (B)(2)(b) of this section, on 43419
and after the effective date of the rules in which fees are 43420
established under division (A)(8)(b) of section 3748.04 of the 43421
Revised Code, an applicant proposing to handle 43422
radiation-generating equipment shall pay for a certificate of 43423
registration or renewal of a certificate the appropriate fee 43424
established in those rules. 43425

The applicant shall pay the fees described in division 43426
(B)(2)(a) of this section at the time of applying for a 43427
certificate of registration or renewal of a certificate. 43428

(b) An applicant that is, or is operated by, a medical 43429
practitioner or medical-practitioner group and proposes to handle 43430
radiation-generating equipment shall pay for a certificate of 43431
registration or renewal of a certificate a biennial registration 43432
fee of two hundred sixty-two dollars. The applicant shall pay the 43433
fee at the time of applying for a certificate of registration or 43434
renewal of the certificate. 43435

(C) All fees collected under this section shall be deposited 43436
in the state treasury to the credit of the general operations fund 43437
created in section 3701.83 of the Revised Code. The fees shall be 43438
used solely to administer and enforce this chapter and rules 43439
adopted under it. 43440

(D) Any fee required under this section that ~~has not been~~ 43441
~~paid within ninety days~~ remains unpaid on the ninety-first day 43442
after the original invoice date shall be assessed ~~at two times an~~ 43443
additional amount equal to ten per cent of the original invoiced 43444
fee. ~~Any fee that has not been paid within one hundred eighty days~~ 43445

~~after the invoice date shall be assessed at five times the~~ 43446
~~original invoiced fee.~~ 43447

(E) The director shall grant a license or registration to any 43448
applicant who has paid the required fee and is in compliance with 43449
this chapter and rules adopted under it. 43450

(F) Except as provided in division (B)(2) of this section, 43451
licenses and certificates of registration shall be effective for 43452
the applicable period established in rules adopted under section 43453
3748.04 of the Revised Code. Licenses and certificates of 43454
registration shall be renewed in accordance with the renewal 43455
procedure established in rules adopted under section 3748.04 of 43456
the Revised Code. 43457

Sec. 3748.10. (A) As used in this section, "person" means any 43458
legal entity defined as a person under section 1.59 of the Revised 43459
Code, the state or any agency of the state, any political 43460
subdivision or agency of a political subdivision, and the United 43461
States or any agency or instrumentality of the United States other 43462
than the United States department of energy or the United States 43463
nuclear regulatory commission where state regulation of the 43464
treatment, recycling, storage, or disposal of low-level 43465
radioactive waste by either of those agencies is prohibited by 43466
federal law. 43467

(B) No person shall treat, recycle, store, or dispose of any 43468
low-level radioactive waste except at a facility that is licensed 43469
for treatment, recycling, storage, or disposal of that waste by 43470
the director of health under this chapter and rules adopted under 43471
it or, until the state becomes an agreement state pursuant to 43472
section 3748.03 of the Revised Code, by the United States nuclear 43473
regulatory commission under the "Atomic Energy Act of 1954," 68 43474
Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted 43475
under it regardless of whether the waste has been reclassified as 43476

"below regulatory concern" by the United States nuclear regulatory 43477
commission pursuant to any rule or standard adopted after January 43478
1, 1990. 43479

(C) Division (B) of this section does not apply to either of 43480
the following: 43481

(1) Any low-level radioactive waste that on or before January 43482
1, 1990, was authorized under the "Atomic Energy Act of 1954," 68 43483
Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted 43484
under it to be treated, recycled, stored, or disposed of at a 43485
facility that has not been licensed under that act and regulations 43486
adopted under it; 43487

(2) Any low-level radioactive waste that has received an 43488
exemption from the director of health under division (C)(2) of 43489
this section. If the United States nuclear regulatory commission 43490
declares its intent to institute a policy regarding the 43491
reclassification of waste as "below regulatory concern," the 43492
~~public health council~~ director, in consultation with the 43493
environmental protection agency, shall adopt rules in accordance 43494
with Chapter 119. of the Revised Code that govern the granting of 43495
such exemptions and that do at least all of the following: 43496

(a) Establish an application procedure to be followed by the 43497
generator of a low-level radioactive waste who wishes to obtain an 43498
exemption for that waste under division (C)(2) of this section; 43499

(b) Require that in order to receive an exemption, a 43500
low-level radioactive waste shall have been reclassified as "below 43501
regulatory concern" by the United States nuclear regulatory 43502
commission after August 19, 1992. The rules adopted under division 43503
(C)(2)(b) of this section shall stipulate that such a 43504
reclassification does not automatically qualify a low-level 43505
radioactive waste for an exemption under division (C)(2) of this 43506
section. 43507

(c) Require an applicant to demonstrate with clear and 43508
convincing evidence that the low-level radioactive waste that is 43509
the subject of the application does not present a higher 43510
radioactive hazard than any low-level radioactive waste to which 43511
division (C)(1) of this section applies and that treatment, 43512
recycling, storage, or disposal of the waste at a facility that 43513
has not been licensed by the director under this chapter and rules 43514
adopted under it or, until the state becomes an agreement state 43515
pursuant to section 3748.03 of the Revised Code, by the United 43516
States nuclear regulatory commission under the "Atomic Energy Act 43517
of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and 43518
regulations adopted under it, will not harm public health or 43519
safety or the environment; 43520

(d) Establish public notification procedures to be followed 43521
by the director for any public hearing held ~~by him~~ under division 43522
(C)(2) of this section. 43523

The director shall review an application submitted ~~to him~~ 43524
under division (C)(2) of this section and shall hold a public 43525
hearing concerning the application before granting or denying the 43526
exemption requested. The director may grant an exemption to the 43527
low-level radioactive waste that is the subject of the application 43528
~~if he determines~~ after determining that the generator has complied 43529
with the rules adopted under division (C)(2)(a) of this section 43530
and that the waste satisfies the requirements established in the 43531
rules adopted under divisions (C)(2)(b) and (c) of this section. 43532
The director shall maintain a list of all low-level radioactive 43533
wastes to which ~~he~~ the director has granted such an exemption. 43534

Division (C)(2) of this section does not apply to any 43535
low-level radioactive waste generated at a nuclear power station. 43536

Sec. 3748.12. The director of health shall certify radiation 43537
experts pursuant to rules adopted under division (C) of section 43538

3748.04 of the Revised Code. The director shall issue a 43539
certificate to each person certified under this section. An 43540
individual certified by the director is qualified to develop, 43541
provide periodic review of, and conduct audits of the quality 43542
assurance program for sources of radiation for which such a 43543
program is required under division (A) of section 3748.13 of the 43544
Revised Code. 43545

The ~~public health council~~ director shall establish an 43546
application fee for applying for certification and a biennial 43547
certification renewal fee in rules adopted under division (C) of 43548
section 3748.04 of the Revised Code. A certificate issued under 43549
this section shall expire two years after the date of its 43550
issuance. To maintain certification, a radiation expert shall 43551
apply to the director for renewal of certification in accordance 43552
with the standard renewal procedures established in Chapter 4745. 43553
of the Revised Code. The certification renewal fee is not required 43554
for initial certification, but shall be paid for every renewal of 43555
certification. Fees collected under this section shall be 43556
deposited into the state treasury to the credit of the general 43557
operations fund created in section 3701.83 of the Revised Code. 43558
The fees shall be used solely to administer and enforce this 43559
chapter and rules adopted under it. Any fee required under this 43560
section that ~~has not been paid within ninety days~~ remains unpaid 43561
on the ninety-first day after the original invoice date shall be 43562
assessed ~~at two times~~ an additional amount equal to ten per cent 43563
of the original ~~invoiced~~ fee. ~~Any fee that has not been paid~~ 43564
~~within one hundred eighty days after the invoice date shall be~~ 43565
~~assessed at five times the original invoiced fee.~~ 43566

Sec. 3748.13. (A) The director of health shall inspect 43567
sources of radiation for which licensure or registration by the 43568
handler is required, and the sources' shielding and surroundings, 43569
according to the schedule established in rules adopted under 43570

division (D) of section 3748.04 of the Revised Code. In accordance 43571
with rules adopted under section 3748.04 of the Revised Code, the 43572
director shall inspect all records and operating procedures of 43573
handlers that install or service sources of radiation and all 43574
sources of radiation for which licensure of radioactive material 43575
or registration of radiation-generating equipment by the handler 43576
is required. The director may make other inspections upon 43577
receiving complaints or other evidence of a violation of this 43578
chapter or rules adopted under it. 43579

The director shall require any hospital registered under 43580
division (A) of section 3701.07 of the Revised Code to develop and 43581
maintain a quality assurance program for all sources of 43582
radiation-generating equipment. A certified radiation expert shall 43583
conduct oversight and maintenance of the program and shall file a 43584
report of audits of the program with the director on forms 43585
prescribed by the director. The audit reports shall become part of 43586
the inspection record. 43587

(B)(1) Except as provided in division (B)(2) of this section, 43588
a facility shall pay inspection fees for radioactive material and 43589
radiation-generating equipment according to the schedule and 43590
categories established in rules adopted under division (A)(9) of 43591
section 3748.04 of the Revised Code. 43592

(2) A facility that is, or is operated by, a medical 43593
practitioner or medical-practitioner group shall pay inspection 43594
fees for radiation-generating equipment according to the following 43595
schedule and categories: 43596

| | | |
|--|-----------|-------|
| First dental x-ray tube | \$ 155.00 | 43597 |
| Each additional dental x-ray tube at the same location | \$ 77.00 | 43598 |
| First medical x-ray tube | \$ 307.00 | 43599 |
| Each additional medical x-ray tube at the same location | \$ 163.00 | 43600 |

| | | |
|---|-----------|-------|
| Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak | \$ 610.00 | 43601 |
| First nonionizing radiation-generating equipment of any kind | \$ 307.00 | 43602 |
| Each additional nonionizing radiation-generating equipment of any kind at the same location | \$ 163.00 | 43603 |

(C)(1) Except as provided in division (C)(2) of this section, 43604
the fee for the inspection of a facility that proposes to handle 43605
radioactive material or radiation-generating equipment and is not 43606
licensed or registered, and for which no license or registration 43607
application is pending at the time of inspection, is four hundred 43608
seventy-four dollars plus the applicable fee specified in rules 43609
adopted under division (A)(9) of section 3748.04 of the Revised 43610
Code. 43611

(2) For a facility that is, or is operated by, a medical 43612
practitioner or medical-practitioner group and proposes to handle 43613
radiation-generating equipment, the fee for an inspection if the 43614
facility is not licensed or registered, and no license or 43615
registration is pending at the time of inspection, is four hundred 43616
seventy-four dollars plus the fee applicable under the schedule in 43617
division (B)(2) of this section. 43618

(D)(1) Except as provided in division (D)(2) of this section, 43619
for a facility that handles radioactive material or 43620
radiation-generating equipment, the fee for an inspection to 43621
determine whether violations cited in a previous inspection have 43622
been corrected is the amount specified in rules adopted under 43623
division (A)(9) of section 3748.04 of the Revised Code. 43624

(2) For a facility that is, or is operated by, a medical 43625

practitioner or medical-practitioner group and handles 43626
radiation-generating equipment, the fee for an inspection to 43627
determine whether violations cited in a previous inspection have 43628
been corrected is fifty per cent of the applicable fee under the 43629
schedule in division (B)(2) of this section. 43630

(E) The director may conduct a review of shielding plans or 43631
the adequacy of shielding on the request of a licensee or 43632
registrant or an applicant for licensure or registration or during 43633
an inspection when the director considers a review to be 43634
necessary. 43635

(1) Except as provided in division (E)(2) of this section, 43636
the fee for the review is the applicable amount specified in rules 43637
adopted under division (A)(9) of section 3748.04 of the Revised 43638
Code. 43639

(2) For a facility that is, or is operated by, a medical 43640
practitioner or medical-practitioner group and handles or proposes 43641
to handle radiation-generating equipment, the fee for the review 43642
is seven hundred sixty-two dollars for each room where a source of 43643
radiation is used and is in addition to any other fee applicable 43644
under the schedule in division (B)(2) of this section. 43645

(F) All fees shall be paid to the department of health no 43646
later than thirty days after the invoice for the fee is mailed. 43647
Fees shall be deposited in the general operations fund created in 43648
section 3701.83 of the Revised Code. The fees shall be used solely 43649
to administer and enforce this chapter and rules adopted under it. 43650

(G) Any fee required under this section that ~~has not been~~ 43651
~~paid within ninety days~~ remains unpaid on the ninety-first day 43652
after the original invoice date shall be assessed ~~at two times an~~ 43653
additional amount equal to ten per cent of the original invoiced 43654
~~fee. Any fee that has not been paid within one hundred eighty days~~ 43655
~~after the invoice date shall be assessed at five times the~~ 43656

~~original invoiced fee.~~ 43657

(H) If the director determines that a board of health of a 43658
city or general health district is qualified to conduct 43659
inspections of radiation-generating equipment, the director may 43660
delegate to the board, by contract, the authority to conduct such 43661
inspections. In making a determination of the qualifications of a 43662
board of health to conduct those inspections, the director shall 43663
evaluate the credentials of the individuals who are to conduct the 43664
inspections of radiation-generating equipment and the radiation 43665
detection and measuring equipment available to them for that 43666
purpose. If a contract is entered into, the board shall have the 43667
same authority to make inspections of radiation-generating 43668
equipment as the director has under this chapter and rules adopted 43669
under it. The contract shall stipulate that only individuals 43670
approved by the director as qualified shall be permitted to 43671
inspect radiation-generating equipment under the contract's 43672
provisions. The contract shall provide for such compensation for 43673
services as is agreed to by the director and the board of health 43674
of the contracting health district. The director may reevaluate 43675
the credentials of the inspection personnel and their radiation 43676
detecting and measuring equipment as often as the director 43677
considers necessary and may terminate any contract with the board 43678
of health of any health district that, in the director's opinion, 43679
is not satisfactorily performing the terms of the contract. 43680

(I) The director may enter at all reasonable times upon any 43681
public or private property to determine compliance with this 43682
chapter and rules adopted under it. 43683

Sec. 3748.15. No facility shall violate or fail to comply 43684
with any duty imposed by this chapter, fail to pay any 43685
administrative penalty assessed in accordance with rules adopted 43686
under division (A)(6) of section 3748.05 of the Revised Code, or 43687

violate or fail to comply with any valid order ~~of~~ issued or rule 43688
adopted by the director of health ~~issued or rule of the public~~ 43689
~~health council adopted~~ under this chapter. Each day a violation 43690
continues is a separate offense. 43691

Sec. 3748.20. (A) The governor, with the advice and consent 43692
of the senate, shall appoint a radiation advisory council, which 43693
shall consist of the following members: 43694

(1) One individual who has recognized ability and credentials 43695
in the field of medical radiation physics; 43696

(2) One individual who has recognized ability and credentials 43697
in the field of health physics; 43698

(3) One individual holding the degree of doctor of medicine 43699
or doctor of osteopathy and licensed to practice medicine or 43700
surgery or osteopathic medicine and surgery, as applicable, under 43701
Chapter 4731. of the Revised Code who has recognized ability and 43702
credentials in the practice of radiology; 43703

(4) One individual who is licensed to practice dentistry 43704
under Chapter 4715. of the Revised Code; 43705

(5) One individual holding the degree of doctor of medicine 43706
and licensed to practice medicine or surgery under Chapter 4731. 43707
of the Revised Code who has recognized ability and credentials in 43708
the field of nuclear medicine; 43709

(6) One individual who has recognized ability and credentials 43710
in the field of public health or environmental science; 43711

(7) One individual licensed as a podiatrist under Chapter 43712
4731. of the Revised Code; 43713

(8) One individual licensed as a chiropractor under Chapter 43714
4734. of the Revised Code; 43715

(9) One individual who is a qualified radiation safety 43716

officer or radiation protection manager from a facility in this state that is licensed for the use of radiation materials;

(10) One individual who has recognized ability and credentials in the field of radon measurement, mitigation, or health risk management;

(11) One individual who is a member of a statewide consumer or environmental advocacy organization;

(12) One individual representing the public;

(13) One individual who has recognized ability and experience in the administration and enforcement of federal radiation protection regulations, who shall be a nonvoting member.

The governor shall make the initial appointments to the council not later than December 7, 1995. Of the initial appointments, four shall be for a term of office of three years, four shall be for a term of office of four years, and four shall be for a term of office of five years. Thereafter, terms of office for the members of the council shall be five years with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of the member's term or until a period of sixty days has elapsed, whichever occurs first.

The council shall hold four regular quarterly meetings each year. Special meetings may be held at the request of the chairperson of the council or the director of health. The

chairperson shall be selected annually by members of the council 43748
during the first meeting of the calendar year. Following each 43749
meeting, the chairperson shall submit a report to the director 43750
summarizing the activities, discussion, and recommendations of the 43751
council. Seven voting members of the council constitute a quorum. 43752

Members of the radiation advisory council shall receive a per 43753
diem compensation in an amount approved by the director and also 43754
shall be reimbursed for actual expenses incurred in the 43755
performance of their official duties. 43756

The department of health shall provide the council the 43757
administrative support necessary to execute its duties. 43758

(B) The radiation advisory council shall do all of the 43759
following: 43760

(1) Advise and consult with the ~~public health council~~ 43761
director in the development of rules ~~proposed for adoption to be~~ 43762
adopted under section 3748.04 of the Revised Code; 43763

(2) Advise and consult with the director concerning the 43764
administration, implementation, and enforcement of this chapter, 43765
including the implementation of the specific responsibilities 43766
delineated in section 3748.05 of the Revised Code; 43767

(3) Advise and consult with the director in the development 43768
of inspection criteria, procedures, and guidelines to be used in 43769
the radiation control program established under this chapter and 43770
rules adopted under it; 43771

(4) Prepare and submit to the director an annual report 43772
evaluating the department's administration of the radiation 43773
control program. 43774

(C) The council shall establish committees to focus on 43775
specific components of the radiation control program established 43776
under this chapter and rules adopted under it. Chairpersons of the 43777

committees shall be appointed by the chairperson of the council 43778
and shall be members of the council. Other members of the 43779
committees shall be appointed by the chairperson of the council 43780
and may include individuals who are not members of the council. 43781

The membership and responsibilities of each committee 43782
established under this division shall be subject to the approval 43783
of the director. Members of the committees shall be reimbursed for 43784
actual expenses incurred in the performance of their official 43785
duties. 43786

Committee reports shall be presented to the council at each 43787
regular meeting of the council. 43788

Sec. 3749.02. The ~~public director of health council~~ shall, 43789
subject to Chapter 119. of the Revised Code, adopt rules of 43790
general application throughout the state governing the issuance of 43791
licenses, approval of plans, layout, construction, sanitation, 43792
safety, and operation of public swimming pools, public spas, and 43793
special use pools. Such rules shall not be applied to the 43794
construction, erection, or manufacture of any building to which 43795
section 3781.06 of the Revised Code is applicable when the 43796
building or structure is either integral to or appurtenant to a 43797
public swimming pool, a public spa, or a special use pool. 43798

Sec. 3749.03. (A) No person shall construct or install, or 43799
renovate or otherwise substantially alter, a public swimming pool, 43800
public spa, or ~~special-use~~ special use pool after September 10, 43801
1987, until the plans for the pool or spa have been submitted to 43802
and approved by the director of health. Within thirty days of 43803
receipt of the plans, the director shall approve or disapprove 43804
them. The plans and approval required under this division do not 43805
apply to repairs or ordinary maintenance that does not 43806
substantially affect the manner of water recirculation or basic 43807

design of the public swimming pool, public spa, or ~~special-use~~ 43808
special use pool. 43809

Any person aggrieved by the director's disapproval of plans 43810
under this division may, within thirty days following receipt of 43811
the director's notice of disapproval, request a hearing on the 43812
matter. The hearing shall be held in accordance with Chapter 119. 43813
of the Revised Code and may be appealed in the manner provided in 43814
that chapter. 43815

(B) Prior to the issuance of a license to operate a newly 43816
constructed or altered public swimming pool, public spa, or 43817
~~special-use~~ special use pool, the director or a licensor 43818
authorized by the director shall verify that the construction or 43819
alterations are consistent with the plans submitted and approved 43820
under division (A) of this section. The director or licensor 43821
authorized by the director shall have two working days from the 43822
time notification is received that a public swimming pool, public 43823
spa, or ~~special-use~~ special use pool is ready for an inspection to 43824
verify the construction or alterations. 43825

(C) ~~The~~ (1) Except as provided in division (C)(2) of this 43826
section, the fees for the approval of plans are as follows: 43827

~~(1)~~(a) Five per cent of the total cost of the equipment and 43828
installation not to exceed two hundred seventy-five dollars for a 43829
public swimming pool, public spa, or ~~special-use~~ special use pool, 43830
or a combination thereof, that has less than two thousand square 43831
feet of surface area; 43832

~~(2)~~(b) Five per cent of the total cost of the equipment and 43833
installation not to exceed five hundred fifty dollars for a public 43834
swimming pool, public spa, ~~special-use~~ special use pool, or a 43835
combination thereof, that has two thousand or more square feet of 43836
surface area. 43837

~~After December 31, 1992, the public health council~~ (2) The 43838

director may, by rule adopted in accordance with Chapter 119. of 43839
the Revised Code, increase the fees established by this section. 43840

(D) All plan approval fees shall be paid into the state 43841
treasury to the credit of the general operations fund created by 43842
section 3701.83 of the Revised Code. The fees shall be 43843
administered by the director and shall be used solely for the 43844
administration and enforcement of this chapter and the rules 43845
adopted thereunder. 43846

(E) Plan approvals issued under this section shall not 43847
constitute an exemption from the land use and building 43848
requirements of the political subdivision in which the public 43849
swimming pool, public spa, or ~~special-use~~ special use pool is or 43850
is to be located. 43851

Sec. 3749.04. (A) No person shall operate or maintain a 43852
public swimming pool, public spa, or ~~special-use~~ special use pool 43853
without a license issued by the licensor having jurisdiction. 43854

(B) Every person who intends to operate or maintain an 43855
existing public swimming pool, public spa, or ~~special-use~~ special 43856
use pool shall, during the month of April of each year, apply to 43857
the licensor having jurisdiction for a license to operate the pool 43858
or spa. Any person proposing to operate or maintain a new or 43859
otherwise unlicensed public swimming pool, public spa, or 43860
~~special-use~~ special use pool shall apply to the licensor having 43861
jurisdiction at least thirty days prior to the intended start of 43862
operation of the pool or spa. Within thirty days of receipt of an 43863
application for licensure of a public swimming pool, public spa, 43864
or ~~special-use~~ special use pool, the licensor shall process the 43865
application and either issue a license or otherwise respond to the 43866
applicant regarding the application. 43867

(C) Each license issued shall be effective from the date of 43868
issuance until the last day of May of the following year. 43869

(D) Each licensor administering and enforcing sections 43870
3749.01 to 3749.09 of the Revised Code and the rules adopted 43871
thereunder may establish licensing and inspection fees in 43872
accordance with section 3709.09 of the Revised Code, which shall 43873
not exceed the cost of licensing and inspecting public swimming 43874
pools, public spas, and ~~special-use~~ special use pools. 43875

(E) Except as provided in division (F) of this section and in 43876
division (B) of section 3749.07 of the Revised Code, all license 43877
fees collected by a licensor shall be deposited into a swimming 43878
pool fund, which is hereby created in each health district. The 43879
fees shall be used by the licensor solely for the purpose of 43880
administering and enforcing this chapter and the rules adopted 43881
under this chapter. 43882

(F) An annual license fee established under division (D) of 43883
this section shall include any additional amount determined by 43884
rule of the ~~public~~ director of health council, which the board of 43885
health shall collect and transmit to the director ~~of health~~ 43886
pursuant to section 3709.092 of the Revised Code. The amounts 43887
collected under this division shall be administered by the 43888
director of health and shall be used solely for the administration 43889
and enforcement of this chapter and the rules adopted under this 43890
chapter. 43891

Sec. 3752.06. (A) Unless the owner or operator of a reporting 43892
facility has submitted to the director of environmental protection 43893
in connection with the facility a notice of the temporary 43894
discontinuation of all regulated operations at the facility in 43895
compliance with division (A)(1) of section 3752.09 of the Revised 43896
Code, has submitted an application for a waiver in compliance with 43897
or been issued a waiver under division (A) of section 3752.10 of 43898
the Revised Code, or, pursuant to division (B) of this section, 43899
has been granted an extension of time for compliance with 43900

divisions (A)(4) to (6) of this section, and except as provided in 43901
division (C) of this section, the owner or operator, not later 43902
than ninety days after the cessation of all regulated operations 43903
at the facility, shall do all of the following: 43904

43905

(1) Submit to the director a copy of the most recent 43906
emergency and hazardous chemical inventory form for the facility 43907
submitted to the emergency response commission in accordance with 43908
section 3750.08 of the Revised Code accompanied by a statement 43909
indicating whether any asbestos-containing materials are present 43910
at the facility; 43911

(2) Submit to the director a copy of the current hazardous 43912
chemical list, or of each of the material safety data sheets, that 43913
the owner or operator is required to have on file with the 43914
commission under section 3750.07 of the Revised Code in connection 43915
with the facility; 43916

(3) Submit to the director a list of every stationary tank, 43917
vat, electrical transformer, and vessel of any type that contains 43918
or is contaminated with regulated substances and that is to remain 43919
at the facility; a precise description of the location of each; 43920
and an identification of the regulated substances that are in or 43921
contaminate each; 43922

(4) Drain or remove all regulated substances from each 43923
stationary vat, tank, electrical transformer, and vessel, and from 43924
all piping, that is to remain at the facility and do any or a 43925
combination of the following: 43926

(a) Transfer the regulated substances to another facility 43927
owned or operated by the owner or operator. If any regulated 43928
substances are transferred to another facility of the owner or 43929
operator located within this state, they shall be transferred to a 43930
facility that is operating. If any regulated substances are 43931

transferred to another facility of the owner or operator located 43932
outside this state, they shall be transferred in compliance with 43933
the applicable laws governing the receiving facility of the state 43934
in which the receiving facility is located. 43935

(b) Lawfully transfer ownership of the regulated substances 43936
to another person through sale or otherwise; 43937

(c) Cause the regulated substances to be transported off the 43938
premises of the facility and managed in compliance with the 43939
applicable provisions of Chapter 3734. of the Revised Code and 43940
rules adopted under that chapter; the "Toxic Substances Control 43941
Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, and 43942
regulations adopted under it; or the "Resource Conservation and 43943
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 43944
amended, and regulations adopted under it; or, if transported out 43945
of state, to be managed in compliance with the waste management 43946
laws of the state to which the regulated substances are 43947
transported. 43948

In the case of any regulated substance that also is a 43949
hazardous material identified or listed in regulations adopted 43950
under the "Hazardous Materials Transportation Act," 88 Stat. 2156 43951
(1975), 49 U.S.C.A. 1801, as amended, and that is to be 43952
transported off the premises of the facility, the owner or 43953
operator of the facility shall transport the regulated substance, 43954
or cause it to be transported, in compliance with the applicable 43955
rules adopted under ~~division (A) of section 4919.85, division (E)~~ 43956
~~of section 4921.04, division (C) of section 4923.03, or division~~ 43957
~~(C) of section 4923.20~~ Chapters 4905., 4921., and 4923. of the 43958
Revised Code. 43959

(5) Remove from the facility all debris, nonstationary 43960
equipment and furnishings, nonstationary containers, and motor 43961
vehicles and rolling stock that contain or are contaminated with a 43962
regulated substance and do any or a combination of the following: 43963

(a) Transfer the debris, equipment, furnishings, containers, 43964
and motor vehicles and rolling stock to another facility owned or 43965
operated by the owner or operator. If any such debris, equipment, 43966
furnishings, containers, or motor vehicles and rolling stock is 43967
transferred to another facility of the owner or operator located 43968
in this state, it shall be transferred to a facility that is 43969
operating. If any such debris, equipment, furnishings, containers, 43970
or motor vehicles and rolling stock is transferred to another 43971
facility of the owner or operator located outside this state, it 43972
only shall be transferred in compliance with the applicable laws 43973
governing the receiving facility of the state in which the 43974
receiving facility is located. 43975

(b) Lawfully transfer ownership of the debris, equipment, 43976
furnishings, containers, and motor vehicles and rolling stock to 43977
another person through sale or otherwise; 43978

(c) Cause the debris, equipment, furnishings, and containers 43979
to be transported off the premises of the facility and managed in 43980
compliance with the applicable provisions of Chapter 3734. of the 43981
Revised Code and rules adopted under that chapter; the "Toxic 43982
Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, 43983
as amended, and regulations adopted under it; or the "Resource 43984
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 43985
6921, as amended, and regulations adopted under it; or, if 43986
transported out of state, to be managed in compliance with the 43987
waste management laws of the state to which the debris, equipment, 43988
furnishings, and containers are transported. 43989

(6) Make a written certification to the director that the 43990
actions required by divisions (A)(4) and (5) of this section have 43991
been completed in compliance with those divisions and any 43992
applicable rules adopted under section 3752.03 of the Revised 43993
Code. The certification shall be made on a form prescribed by the 43994
director and, in addition to the information required in division 43995

(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 division (A)(6) of this section with respect to hazardous waste stored, treated, or disposed of at the facility, or portion of the facility, for which the owner holds a valid hazardous waste facility installation and operation permit or renewal permit issued under section 3734.05 of the Revised Code or has obtained a

generator identification number pursuant to rules adopted under 44027
section 3734.12 of the Revised Code. Instead, the owner shall 44028
comply with the applicable closure and post-closure care 44029
requirements established in rules adopted under section 3734.12 of 44030
the Revised Code. 44031

(D) No person shall fail to comply with any provision of 44032
division (A) of this section within the time required by that 44033
division and any extension of that time granted under division (B) 44034
of this section, as appropriate. 44035

Sec. 3770.06. (A) There is hereby created the state lottery 44036
gross revenue fund, which shall be in the custody of the treasurer 44037
of state but shall not be part of the state treasury. All gross 44038
revenues received from sales of lottery tickets, fines, fees, and 44039
related proceeds in connection with the statewide lottery and all 44040
gross proceeds from statewide joint lottery games shall be 44041
deposited into the fund. The treasurer of state shall invest any 44042
portion of the fund not needed for immediate use in the same 44043
manner as, and subject to all provisions of law with respect to 44044
the investment of, state funds. The treasurer of state shall 44045
disburse money from the fund on order of the director of the state 44046
lottery commission or the director's designee. 44047

Except for gross proceeds from statewide joint lottery games, 44048
all revenues of the state lottery gross revenue fund that are not 44049
paid to holders of winning lottery tickets, that are not required 44050
to meet short-term prize liabilities, that are not credited to 44051
lottery sales agents in the form of bonuses, commissions, or 44052
reimbursements, that are not paid to financial institutions to 44053
reimburse those institutions for sales agent nonsufficient funds, 44054
and that are collected from sales agents for remittance to 44055
insurers under contract to provide sales agent bonding services 44056
shall be transferred to the state lottery fund, which is hereby 44057

created in the state treasury. In addition, all revenues of the 44058
state lottery gross revenue fund that represent the gross proceeds 44059
from the statewide joint lottery games and that are not paid to 44060
holders of winning lottery tickets, that are not required to meet 44061
short-term prize liabilities, that are not credited to lottery 44062
sales agents in the form of bonuses, commissions, or 44063
reimbursements, and that are not necessary to cover operating 44064
expenses associated with those games or to otherwise comply with 44065
the agreements signed by the governor that the director enters 44066
into under division (J) of section 3770.02 of the Revised Code or 44067
the rules the commission adopts under division (B)(5) of section 44068
3770.03 of the Revised Code shall be transferred to the state 44069
lottery fund. All investment earnings of the fund shall be 44070
credited to the fund. Moneys shall be disbursed from the fund 44071
pursuant to vouchers approved by the director. Total disbursements 44072
for monetary prize awards to holders of winning lottery tickets in 44073
connection with the statewide lottery and purchases of goods and 44074
services awarded as prizes to holders of winning lottery tickets 44075
shall be of an amount equal to at least fifty per cent of the 44076
total revenue accruing from the sale of lottery tickets. 44077

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, 44078
there is hereby established in the state treasury the lottery 44079
profits education fund. Whenever, in the judgment of the director 44080
of ~~budget and management~~ the state lottery commission, the amount 44081
to the credit of the state lottery fund that does not represent 44082
proceeds from statewide joint lottery games is in excess of that 44083
needed to meet the maturing obligations of the commission and as 44084
working capital for its further operations, the director of the 44085
state lottery commission shall recommend the amount of the excess 44086
to be transferred to the lottery profits education fund, and the 44087
director of budget and management may transfer the excess to the 44088
lottery profits education fund in connection with the statewide 44089
lottery. In addition, whenever, in the judgment of the director of 44090

~~budget and management~~ the state lottery commission, the amount to 44091
the credit of the state lottery fund that represents proceeds from 44092
statewide joint lottery games equals the entire net proceeds of 44093
those games as described in division (B)(5) of section 3770.03 of 44094
the Revised Code and the rules adopted under that division, the 44095
director of the state lottery commission shall recommend the 44096
amount of the proceeds to be transferred to the lottery profits 44097
education fund, and the director of budget and management may 44098
transfer those proceeds to the lottery profits education fund. 44099
~~There shall also be credited to the fund any repayments of moneys~~ 44100
~~loaned from the educational excellence investment fund.~~ Investment 44101
earnings of the lottery profits education fund shall be credited 44102
to the fund. 44103

The lottery profits education fund shall be used solely for 44104
the support of elementary, secondary, vocational, and special 44105
education programs as determined in appropriations made by the 44106
general assembly, or as provided in applicable bond proceedings 44107
for the payment of debt service on obligations issued to pay costs 44108
of capital facilities, including those for a system of common 44109
schools throughout the state pursuant to section 2n of Article 44110
VIII, Ohio Constitution. When determining the availability of 44111
money in the lottery profits education fund, the director of 44112
budget and management may consider all balances and estimated 44113
revenues of the fund. 44114

(C) There is hereby established in the state treasury the 44115
deferred prizes trust fund. With the approval of the director of 44116
budget and management, an amount sufficient to fund annuity prizes 44117
shall be transferred from the state lottery fund and credited to 44118
the trust fund. The treasurer of state shall credit all earnings 44119
arising from investments purchased under this division to the 44120
trust fund. Within sixty days after the end of each fiscal year, 44121
the treasurer of state shall certify to the director of budget and 44122

management whether the actuarial amount of the trust fund is 44123
sufficient over the fund's life for continued funding of all 44124
remaining deferred prize liabilities as of the last day of the 44125
fiscal year just ended. Also, within that sixty days, the director 44126
of budget and management shall certify the amount of investment 44127
earnings necessary to have been credited to the trust fund during 44128
the fiscal year just ending to provide for such continued funding 44129
of deferred prizes. Any earnings credited in excess of the latter 44130
certified amount shall be transferred to the lottery profits 44131
education fund. 44132

To provide all or a part of the amounts necessary to fund 44133
deferred prizes awarded by the commission in connection with the 44134
statewide lottery, the treasurer of state, in consultation with 44135
the commission, may invest moneys contained in the deferred prizes 44136
trust fund which represents proceeds from the statewide lottery in 44137
obligations of the type permitted for the investment of state 44138
funds but whose maturities are thirty years or less. 44139
Notwithstanding the requirements of any other section of the 44140
Revised Code, to provide all or part of the amounts necessary to 44141
fund deferred prizes awarded by the commission in connection with 44142
statewide joint lottery games, the treasurer of state, in 44143
consultation with the commission, may invest moneys in the trust 44144
fund which represent proceeds derived from the statewide joint 44145
lottery games in accordance with the rules the commission adopts 44146
under division (B)(5) of section 3770.03 of the Revised Code. 44147
Investments of the trust fund are not subject to the provisions of 44148
division (A)(10) of section 135.143 of the Revised Code limiting 44149
to twenty-five per cent the amount of the state's total average 44150
portfolio that may be invested in debt interests and limiting to 44151
one-half of one per cent the amount that may be invested in debt 44152
interests of a single issuer. 44153

All purchases made under this division shall be effected on a 44154

delivery versus payment method and shall be in the custody of the 44155
treasurer of state. 44156

The treasurer of state may retain an investment advisor, if 44157
necessary. The commission shall pay any costs incurred by the 44158
treasurer of state in retaining an investment advisor. 44159

(D) The auditor of state shall conduct annual audits of all 44160
funds and any other audits as the auditor of state or the general 44161
assembly considers necessary. The auditor of state may examine all 44162
records, files, and other documents of the commission, and records 44163
of lottery sales agents that pertain to their activities as 44164
agents, for purposes of conducting authorized audits. 44165

The state lottery commission shall establish an internal 44166
audit program before the beginning of each fiscal year, subject to 44167
the approval of the auditor of state. At the end of each fiscal 44168
year, the commission shall prepare and submit an annual report to 44169
the auditor of state for the auditor of state's review and 44170
approval, specifying the internal audit work completed by the end 44171
of that fiscal year and reporting on compliance with the annual 44172
internal audit program. The form and content of the report shall 44173
be prescribed by the auditor of state under division (C) of 44174
section 117.20 of the Revised Code. 44175

(E) Whenever, in the judgment of the director of budget and 44176
management, an amount of net state lottery proceeds is necessary 44177
to be applied to the payment of debt service on obligations, all 44178
as defined in sections 151.01 and 151.03 of the Revised Code, the 44179
director shall transfer that amount directly from the state 44180
lottery fund or from the lottery profits education fund to the 44181
bond service fund defined in those sections. The provisions of 44182
this division are subject to any prior pledges or obligation of 44183
those amounts to the payment of bond service charges as defined in 44184
division (C) of section 3318.21 of the Revised Code, as referred 44185
to in division (B) of this section. 44186

Sec. 3781.03. (A) The state fire marshal, the fire chief of a municipal corporation that has a fire department, or the fire chief of a township that has a fire department shall enforce the provisions of this chapter and Chapter 3791. of the Revised Code that relate to fire prevention.

(B) The superintendent of ~~labor~~ industrial compliance, or the building inspector or commissioner of buildings in a municipal corporation, county, or township in which the building department is certified by the board of building standards under section 3781.10 of the Revised Code shall enforce in the jurisdiction of each entity all the provisions in this chapter and Chapter 3791. of the Revised Code and any rules adopted pursuant to those chapters that relate to the construction, arrangement, and erection of all buildings or parts of buildings, as defined in section 3781.06 of the Revised Code, including the sanitary condition of those buildings in relation to heating and ventilation.

(C) The division of ~~labor~~ industrial compliance in the department of commerce, boards of health of health districts, certified departments of building inspection of municipal corporations, and county building departments that have authority to perform inspections pursuant to a contract under division (C)(1) of section 3703.01 of the Revised Code, subject to Chapter 3703. of the Revised Code, shall enforce this chapter and Chapter 3791. of the Revised Code and the rules adopted pursuant to those chapters that relate to plumbing. Building drains are considered plumbing for the purposes of enforcement of those chapters.

(D)(1) In accordance with Chapter 3703. of the Revised Code, the department of the city engineer, in cities having such departments, the boards of health of health districts, or the sewer purveyor, as appropriate, shall have complete authority to

supervise and regulate the entire sewerage and drainage system in 44218
the jurisdiction in which it is exercising the authority described 44219
in this division, including the building sewer and all laterals 44220
draining into the street sewers. 44221

(2) In accordance with Chapter 3703. of the Revised Code, the 44222
department of the city engineer, the boards of health of health 44223
districts, or the sewer purveyor, as appropriate, shall control 44224
and supervise the installation and construction of all drains and 44225
sewers that become a part of the sewerage system and shall issue 44226
all the necessary permits and licenses for the construction and 44227
installation of all building sewers and of all other lateral 44228
drains that empty into the main sewers. The department of the city 44229
engineer, the boards of health of health districts, and the sewer 44230
purveyor, as appropriate, shall keep a permanent record of the 44231
installation and location of every drain and sewer of the drainage 44232
and sewerage system of the jurisdiction in which it has exercised 44233
the authority described in this division. 44234

(E) This section does not exempt any officer or department 44235
from the obligation to enforce this chapter and Chapter 3791. of 44236
the Revised Code. 44237

Sec. 3781.06. (A)(1) Any building that may be used as a place 44238
of resort, assembly, education, entertainment, lodging, dwelling, 44239
trade, manufacture, repair, storage, traffic, or occupancy by the 44240
public, any residential building, and all other buildings or parts 44241
and appurtenances of those buildings erected within this state, 44242
shall be so constructed, erected, equipped, and maintained that 44243
they shall be safe and sanitary for their intended use and 44244
occupancy. 44245

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the 44246
Revised Code shall be construed to limit the power of the ~~public~~ 44247
~~health council~~ manufactured homes commission to adopt rules of 44248

uniform application governing manufactured home parks pursuant to 44249
section ~~3733.02~~ 4781.26 of the Revised Code. 44250

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised 44251
Code do not apply to either of the following: 44252

(1) Buildings or structures that are incident to the use for 44253
agricultural purposes of the land on which the buildings or 44254
structures are located, provided those buildings or structures are 44255
not used in the business of retail trade. For purposes of this 44256
division, a building or structure is not considered used in the 44257
business of retail trade if fifty per cent or more of the gross 44258
income received from sales of products in the building or 44259
structure by the owner or operator is from sales of products 44260
produced or raised in a normal crop year on farms owned or 44261
operated by the seller. 44262

(2) Existing single-family, two-family, and three-family 44263
detached dwelling houses for which applications have been 44264
submitted to the director of job and family services pursuant to 44265
section 5104.03 of the Revised Code for the purposes of operating 44266
type A family day-care homes as defined in section 5104.01 of the 44267
Revised Code. 44268

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the 44269
Revised Code: 44270

(1) "Agricultural purposes" include agriculture, farming, 44271
dairying, pasturage, apiculture, horticulture, floriculture, 44272
viticulture, ornamental horticulture, olericulture, pomiculture, 44273
and animal and poultry husbandry. 44274

(2) "Building" means any structure consisting of foundations, 44275
walls, columns, girders, beams, floors, and roof, or a combination 44276
of any number of these parts, with or without other parts or 44277
appurtenances. 44278

(3) "Industrialized unit" means a building unit or assembly 44279

of closed construction fabricated in an off-site facility, that is 44280
substantially self-sufficient as a unit or as part of a greater 44281
structure, and that requires transportation to the site of 44282
intended use. "Industrialized unit" includes units installed on 44283
the site as independent units, as part of a group of units, or 44284
incorporated with standard construction methods to form a 44285
completed structural entity. "Industrialized unit" does not 44286
include a manufactured home as defined by division (C)(4) of this 44287
section or a mobile home as defined by division (O) of section 44288
4501.01 of the Revised Code. 44289

(4) "Manufactured home" means a building unit or assembly of 44290
closed construction that is fabricated in an off-site facility and 44291
constructed in conformance with the federal construction and 44292
safety standards established by the secretary of housing and urban 44293
development pursuant to the "Manufactured Housing Construction and 44294
Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 44295
5403, and that has a permanent label or tag affixed to it, as 44296
specified in 42 U.S.C.A. 5415, certifying compliance with all 44297
applicable federal construction and safety standards. 44298

(5) "Permanent foundation" means permanent masonry, concrete, 44299
or a footing or foundation approved by the manufactured homes 44300
commission pursuant to Chapter 4781. of the Revised Code, to which 44301
a manufactured or mobile home may be affixed. 44302

(6) "Permanently sited manufactured home" means a 44303
manufactured home that meets all of the following criteria: 44304

(a) The structure is affixed to a permanent foundation and is 44305
connected to appropriate facilities; 44306

(b) The structure, excluding any addition, has a width of at 44307
least twenty-two feet at one point, a length of at least 44308
twenty-two feet at one point, and a total living area, excluding 44309
garages, porches, or attachments, of at least nine hundred square 44310

feet; 44311

(c) The structure has a minimum 3:12 residential roof pitch, 44312
conventional residential siding, and a six-inch minimum eave 44313
overhang, including appropriate guttering; 44314

(d) The structure was manufactured after January 1, 1995; 44315

(e) The structure is not located in a manufactured home park 44316
as defined by section ~~3733.01~~ 4781.01 of the Revised Code. 44317

(7) "Safe," with respect to a building, means it is free from 44318
danger or hazard to the life, safety, health, or welfare of 44319
persons occupying or frequenting it, or of the public and from 44320
danger of settlement, movement, disintegration, or collapse, 44321
whether such danger arises from the methods or materials of its 44322
construction or from equipment installed therein, for the purpose 44323
of lighting, heating, the transmission or utilization of electric 44324
current, or from its location or otherwise. 44325

(8) "Sanitary," with respect to a building, means it is free 44326
from danger or hazard to the health of persons occupying or 44327
frequenting it or to that of the public, if such danger arises 44328
from the method or materials of its construction or from any 44329
equipment installed therein, for the purpose of lighting, heating, 44330
ventilating, or plumbing. 44331

(9) "Residential building" means a one-family, two-family, or 44332
three-family dwelling house, and any accessory structure 44333
incidental to that dwelling house. "Residential building" includes 44334
a one-family, two-family, or three-family dwelling house that is 44335
used as a model to promote the sale of a similar dwelling house. 44336
"Residential building" does not include an industrialized unit as 44337
defined by division (C)(3) of this section, a manufactured home as 44338
defined by division (C)(4) of this section, or a mobile home as 44339
defined by division (O) of section 4501.01 of the Revised Code. 44340

(10) "Nonresidential building" means any building that is not 44341

a residential building or a manufactured or mobile home. 44342

(11) "Accessory structure" means a structure that is attached 44343
to a residential building and serves the principal use of the 44344
residential building. "Accessory structure" includes, but is not 44345
limited to, a garage, porch, or screened-in patio. 44346

Sec. 3781.102. (A) Any county or municipal building 44347
department certified pursuant to division (E) of section 3781.10 44348
of the Revised Code as of September 14, 1970, and that, as of that 44349
date, was inspecting single-family, two-family, and three-family 44350
residences, and any township building department certified 44351
pursuant to division (E) of section 3781.10 of the Revised Code, 44352
is hereby declared to be certified to inspect single-family, 44353
two-family, and three-family residences containing industrialized 44354
units, and shall inspect the buildings or classes of buildings 44355
subject to division (E) of section 3781.10 of the Revised Code. 44356

(B) Each board of county commissioners may adopt, by 44357
resolution, rules establishing standards and providing for the 44358
licensing of electrical and heating, ventilating, and air 44359
conditioning contractors who are not required to hold a valid and 44360
unexpired license pursuant to Chapter 4740. of the Revised Code. 44361

Rules adopted by a board of county commissioners pursuant to 44362
this division may be enforced within the unincorporated areas of 44363
the county and within any municipal corporation where the 44364
legislative authority of the municipal corporation has contracted 44365
with the board for the enforcement of the county rules within the 44366
municipal corporation pursuant to section 307.15 of the Revised 44367
Code. The rules shall not conflict with rules adopted by the board 44368
of building standards pursuant to section 3781.10 of the Revised 44369
Code or by the department of commerce pursuant to Chapter 3703. of 44370
the Revised Code. This division does not impair or restrict the 44371
power of municipal corporations under Section 3 of Article XVIII, 44372

Ohio Constitution, to adopt rules concerning the erection, 44373
construction, repair, alteration, and maintenance of buildings and 44374
structures or of establishing standards and providing for the 44375
licensing of specialty contractors pursuant to section 715.27 of 44376
the Revised Code. 44377

A board of county commissioners, pursuant to this division, 44378
may require all electrical contractors and heating, ventilating, 44379
and air conditioning contractors, other than those who hold a 44380
valid and unexpired license issued pursuant to Chapter 4740. of 44381
the Revised Code, to successfully complete an examination, test, 44382
or demonstration of technical skills, and may impose a fee and 44383
additional requirements for a license to engage in their 44384
respective occupations within the jurisdiction of the board's 44385
rules under this division. 44386

(C) No board of county commissioners shall require any 44387
specialty contractor who holds a valid and unexpired license 44388
issued pursuant to Chapter 4740. of the Revised Code to 44389
successfully complete an examination, test, or demonstration of 44390
technical skills in order to engage in the type of contracting for 44391
which the license is held, within the unincorporated areas of the 44392
county and within any municipal corporation whose legislative 44393
authority has contracted with the board for the enforcement of 44394
county regulations within the municipal corporation, pursuant to 44395
section 307.15 of the Revised Code. 44396

(D) A board may impose a fee for registration of a specialty 44397
contractor who holds a valid and unexpired license issued pursuant 44398
to Chapter 4740. of the Revised Code before that specialty 44399
contractor may engage in the type of contracting for which the 44400
license is held within the unincorporated areas of the county and 44401
within any municipal corporation whose legislative authority has 44402
contracted with the board for the enforcement of county 44403
regulations within the municipal corporation, pursuant to section 44404

307.15 of the Revised Code, provided that the fee is the same for 44405
all specialty contractors who wish to engage in that type of 44406
contracting. If a board imposes such a fee, the board immediately 44407
shall permit a specialty contractor who presents proof of holding 44408
a valid and unexpired license and pays the required fee to engage 44409
in the type of contracting for which the license is held within 44410
the unincorporated areas of the county and within any municipal 44411
corporation whose legislative authority has contracted with the 44412
board for the enforcement of county regulations within the 44413
municipal corporation, pursuant to section 307.15 of the Revised 44414
Code. 44415

(E) The political subdivision associated with each municipal, 44416
township, and county building department the board of building 44417
standards certifies pursuant to division (E) of section 3781.10 of 44418
the Revised Code may prescribe fees to be paid by persons, 44419
political subdivisions, or any department, agency, board, 44420
commission, or institution of the state, for the acceptance and 44421
approval of plans and specifications, and for the making of 44422
inspections, pursuant to sections 3781.03 and 3791.04 of the 44423
Revised Code. 44424

(F) Each political subdivision that prescribes fees pursuant 44425
to division (E) of this section shall collect, on behalf of the 44426
board of building standards, fees equal to the following: 44427

(1) Three per cent of the fees the political subdivision 44428
collects in connection with nonresidential buildings; 44429

(2) One per cent of the fees the political subdivision 44430
collects in connection with residential buildings. 44431

(G)(1) The board shall adopt rules, in accordance with 44432
Chapter 119. of the Revised Code, specifying the manner in which 44433
the fee assessed pursuant to division (F) of this section shall be 44434
collected and remitted monthly to the board. The board shall pay 44435

the fees into the state treasury to the credit of the ~~labor~~ 44436
industrial compliance operating fund created in section 121.084 of 44437
the Revised Code. 44438

(2) All money credited to the ~~labor~~ industrial compliance 44439
operating fund under this division shall be used exclusively for 44440
the following: 44441

(a) Operating costs of the board; 44442

(b) Providing services, including educational programs, for 44443
the building departments that are certified by the board pursuant 44444
to division (E) of section 3781.10 of the Revised Code; 44445

(c) Paying the expenses of the residential construction 44446
advisory committee, including the expenses of committee members as 44447
provided in section 4740.14 of the Revised Code. 44448

(H) A board of county commissioners that adopts rules 44449
providing for the licensing of electrical and heating, 44450
ventilating, and air conditioning contractors, pursuant to 44451
division (B) of this section, may accept, for purposes of 44452
satisfying the requirements of rules adopted under that division, 44453
a valid and unexpired license issued pursuant to Chapter 4740. of 44454
the Revised Code that is held by an electrical or heating, 44455
ventilating, and air conditioning contractor, for the 44456
construction, replacement, maintenance, or repair of one-family, 44457
two-family, or three-family dwelling houses or accessory 44458
structures incidental to those dwelling houses. 44459

(I) A board of county commissioners shall not register a 44460
specialty contractor who is required to hold a license under 44461
Chapter 4740. of the Revised Code but does not hold a valid 44462
license issued under that chapter. 44463

(J) As used in this section, "specialty contractor" means a 44464
heating, ventilating, and air conditioning contractor, 44465
refrigeration contractor, electrical contractor, plumbing 44466

contractor, or hydronics contractor, as those contractors are 44467
described in Chapter 4740. of the Revised Code. 44468

Sec. 3781.11. (A) The rules of the board of building 44469
standards shall: 44470

(1) For nonresidential buildings, provide uniform minimum 44471
standards and requirements, and for residential buildings, provide 44472
standards and requirements that are uniform throughout the state, 44473
for construction and construction materials, including 44474
construction of industrialized units, to make residential and 44475
nonresidential buildings safe and sanitary as defined in section 44476
3781.06 of the Revised Code; 44477

(2) Formulate such standards and requirements, so far as may 44478
be practicable, in terms of performance objectives, so as to make 44479
adequate performance for the use intended the test of 44480
acceptability; 44481

(3) Permit, to the fullest extent feasible, the use of 44482
materials and technical methods, devices, and improvements, 44483
including the use of industrialized units which tend to reduce the 44484
cost of construction and erection without affecting minimum 44485
requirements for the health, safety, and security of the occupants 44486
or users of buildings or industrialized units and without 44487
preferential treatment of types or classes of materials or 44488
products or methods of construction; 44489

(4) Encourage, so far as may be practicable, the 44490
standardization of construction practices, methods, equipment, 44491
material, and techniques, including methods employed to produce 44492
industrialized units; 44493

(5) Not require any alteration or repair of any part of a 44494
school building owned by a chartered nonpublic school or a city, 44495
local, exempted village, or joint vocational school district and 44496

operated in conjunction with any primary or secondary school 44497
program that is not being altered or repaired if all of the 44498
following apply: 44499

(a) The school building meets all of the applicable building 44500
code requirements in existence at the time of the construction of 44501
the building. 44502

(b) The school building otherwise satisfies the requirements 44503
of section 3781.06 of the Revised Code. 44504

(c) The part of the school building altered or repaired 44505
conforms to all rules of the board existing on the date of the 44506
repair or alteration. 44507

(6) Not require any alteration or repair to any part of a 44508
workshop or factory that is not otherwise being altered, repaired, 44509
or added to if all of the following apply: 44510

(a) The workshop or factory otherwise satisfies the 44511
requirements of section 3781.06 of the Revised Code. 44512

(b) The part of the workshop or factory altered, repaired, or 44513
added conforms to all rules of the board existing on the date of 44514
plan approval of the repair, alteration, or addition. 44515

(B) The rules of the board shall supersede and govern any 44516
order, standard, or rule of the division of ~~labor~~ industrial 44517
compliance in the department of commerce, division of the state 44518
fire marshal, the department of health, and of counties and 44519
townships, in all cases where such orders, standards, or rules are 44520
in conflict with the rules of the board, except that rules adopted 44521
and orders issued by the state fire marshal pursuant to Chapter 44522
3743. of the Revised Code prevail in the event of a conflict. 44523

(C) The construction, alteration, erection, and repair of 44524
buildings including industrialized units, and the materials and 44525
devices of any kind used in connection with them and the heating 44526

and ventilating of them and the plumbing and electric wiring in 44527
them shall conform to the statutes of this state or the rules 44528
adopted and promulgated by the board, and to provisions of local 44529
ordinances not inconsistent therewith. Any building, structure, or 44530
part thereof, constructed, erected, altered, manufactured, or 44531
repaired not in accordance with the statutes of this state or with 44532
the rules of the board, and any building, structure, or part 44533
thereof in which there is installed, altered, or repaired any 44534
fixture, device, and material, or plumbing, heating, or 44535
ventilating system, or electric wiring not in accordance with such 44536
statutes or rules is a public nuisance. 44537

(D) As used in this section: 44538

(1) "Nonpublic school" means a chartered school for which 44539
minimum standards are prescribed by the state board of education 44540
pursuant to division (D) of section 3301.07 of the Revised Code. 44541

(2) "Workshop or factory" includes manufacturing, mechanical, 44542
electrical, mercantile, art, and laundering establishments, 44543
printing, telegraph, and telephone offices, railroad depots, and 44544
memorial buildings, but does not include hotels and tenement and 44545
apartment houses. 44546

Sec. 3781.112. (A) As used in this section, "secured 44547
facility" means any of the following: 44548

(1) A maternity ~~boardinghouse or lying in hospital unit,~~ 44549
~~newborn care nursery, or maternity home~~ licensed under ~~section~~ 44550
~~3711.02 Chapter 3711.~~ of the Revised Code; 44551

(2) A pediatric intensive care unit subject to rules adopted 44552
by the director of health pursuant to section 3702.11 of the 44553
Revised Code; 44554

(3) A children's hospital, as defined in section ~~3702.51~~ 44555
3727.01 of the Revised Code; 44556

(4) A hospital that is licensed under section 5119.20 of the Revised Code to receive mentally ill persons;

(5) The portion of a nursing home licensed under section 3721.02 of the Revised Code or in accordance with section 3721.09 of the Revised Code in which specialized care is provided to residents of the nursing home who have physical or mental conditions that require a resident to be restricted in the resident's freedom of movement for the health and safety of the resident, the staff attending the resident, or the general public.

(B) A secured facility may take reasonable steps in accordance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, to deny egress to confine and protect patients or residents of the secured facility who are not capable of self-preservation. A secured facility that wishes to deny egress to those patients or residents may use delayed-egress doors and electronically coded doors to deny egress, on the condition that those doors are installed and used in accordance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code. A secured facility also may install controlled-egress locks, in compliance with rules the board of building standards adopts under division (A) section 3781.10 of the Revised Code and in compliance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, in areas of the secured facility where patients or residents who have physical or mental conditions that would endanger the patients or residents, the staff attending the patients or residents, or the general public if those patients or residents are not restricted in their freedom of movement. A secured facility that uses

delayed-egress doors and electronically coded doors, 44589
controlled-egress locks, or both, shall do both of the following: 44590

(1) Provide continuous, twenty-four-hour custodial care to 44591
the patients or residents of the facility; 44592

(2) Establish a system to evacuate patients or residents in 44593
the event of fire or other emergency. 44594

Sec. 3783.05. The board of building standards, in accordance 44595
with Chapters 119., 3781., and 3791. of the Revised Code, shall 44596
adopt, amend, or repeal such rules as may be reasonably necessary 44597
to administer this chapter. All fees collected by the board 44598
pursuant to this chapter shall be paid into the state treasury to 44599
the credit of the ~~labor~~ industrial compliance operating fund 44600
created in section 121.084 of the Revised Code. 44601

Sec. 3791.02. No owner, or person having the control as an 44602
officer or member of a board or committee or otherwise of any 44603
opera house, hall, theater, church, schoolhouse, college, academy, 44604
seminary, infirmary, sanitarium, children's home, hospital, 44605
medical institute, asylum, memorial building, armory, assembly 44606
hall, or other building for the assemblage or betterment of people 44607
shall fail to obey any order of the state fire marshal, boards of 44608
health of city and general health districts, the building 44609
inspector or commissioner in cities having a building inspection 44610
department, or the superintendent of ~~labor~~ industrial compliance 44611
in the department of commerce under Chapters 3781. and 3791. of 44612
the Revised Code or rules or regulations adopted pursuant thereto. 44613

Whoever violates this section shall be fined not more than 44614
one thousand dollars. 44615

Sec. 3791.04. (A)(1) Before beginning the construction, 44616
erection, or manufacture of any building to which section 3781.06 44617

of the Revised Code applies, including all industrialized units, 44618
the owner of that building, in addition to any other submission 44619
required by law, shall submit plans or drawings, specifications, 44620
and data prepared for the construction, erection, equipment, 44621
alteration, or addition that indicate the portions that have been 44622
approved pursuant to section 3781.12 of the Revised Code and for 44623
which no further approval is required, to the municipal, township, 44624
or county building department having jurisdiction unless one of 44625
the following applies: 44626

(a) If no municipal, township, or county building department 44627
certified for nonresidential buildings pursuant to division (E) of 44628
section 3781.10 of the Revised Code has jurisdiction, the owner 44629
shall make the submissions described in division (A)(1) of this 44630
section to the superintendent of ~~labor~~ industrial compliance. 44631

(b) If no certified municipal, township, or county building 44632
department certified for residential buildings pursuant to 44633
division (E) of section 3781.10 of the Revised Code has 44634
jurisdiction, the owner is not required to make the submissions 44635
described in division (A)(1) of this section. 44636

(2)(a) The seal of an architect registered under Chapter 44637
4703. of the Revised Code or an engineer registered under Chapter 44638
4733. of the Revised Code is required for any plans, drawings, 44639
specifications, or data submitted for approval, unless the plans, 44640
drawings, specifications, or data are permitted to be prepared by 44641
persons other than registered architects pursuant to division (C) 44642
or (D) of section 4703.18 of the Revised Code, or by persons other 44643
than registered engineers pursuant to division (C) or (D) of 44644
section 4733.18 of the Revised Code. 44645

(b) No seal is required for any plans, drawings, 44646
specifications, or data submitted for approval for any residential 44647
buildings, as defined in section 3781.06 of the Revised Code, or 44648
erected as industrialized one-, two-, or three-family units or 44649

structures within the meaning of "industrialized unit" as defined 44650
in section 3781.06 of the Revised Code. 44651

(c) No seal is required for approval of the installation of 44652
replacement equipment or systems that are similar in type or 44653
capacity to the equipment or systems being replaced. No seal is 44654
required for approval for any new construction, improvement, 44655
alteration, repair, painting, decorating, or other modification of 44656
any buildings or structures subject to sections 3781.06 to 3781.18 44657
and 3791.04 of the Revised Code if the proposed work does not 44658
involve technical design analysis, as defined by rule adopted by 44659
the board of building standards. 44660

(B) No owner shall proceed with the construction, erection, 44661
alteration, or equipment of any building until the plans or 44662
drawings, specifications, and data have been approved as this 44663
section requires, or the industrialized unit inspected at the 44664
point of origin. No plans or specifications shall be approved or 44665
inspection approval given unless the building represented would, 44666
if constructed, repaired, erected, or equipped, comply with 44667
Chapters 3781. and 3791. of the Revised Code and any rule made 44668
under those chapters. 44669

(C) The approval of plans or drawings and specifications or 44670
data pursuant to this section is invalid if construction, 44671
erection, alteration, or other work upon the building has not 44672
commenced within twelve months of the approval of the plans or 44673
drawings and specifications. One extension shall be granted for an 44674
additional twelve-month period if the owner requests at least ten 44675
days in advance of the expiration of the permit and upon payment 44676
of a fee not to exceed one hundred dollars. If in the course of 44677
construction, work is delayed or suspended for more than six 44678
months, the approval of plans or drawings and specifications or 44679
data is invalid. Two extensions shall be granted for six months 44680
each if the owner requests at least ten days in advance of the 44681

expiration of the permit and upon payment of a fee for each 44682
extension of not more than one hundred dollars. Before any work 44683
may continue on the construction, erection, alteration, or 44684
equipment of any building for which the approval is invalid, the 44685
owner of the building shall resubmit the plans or drawings and 44686
specifications for approval pursuant to this section. 44687

(D) Subject to section 3791.042 of the Revised Code, the 44688
board of building standards or the legislative authority of a 44689
municipal corporation, township, or county, by rule, may regulate 44690
the requirements for the submission of plans and specifications to 44691
the respective enforcing departments and for processing by those 44692
departments. The board of building standards or the legislative 44693
authority of a municipal corporation, township, or county may 44694
adopt rules to provide for the approval, subject to section 44695
3791.042 of the Revised Code, by the department having 44696
jurisdiction of the plans for construction of a foundation or any 44697
other part of a building or structure before the complete plans 44698
and specifications for the entire building or structure are 44699
submitted. When any plans are approved by the department having 44700
jurisdiction, the structure and every particular represented by 44701
and disclosed in those plans shall, in the absence of fraud or a 44702
serious safety or sanitation hazard, be conclusively presumed to 44703
comply with Chapters 3781. and 3791. of the Revised Code and any 44704
rule issued pursuant to those chapters, if constructed, altered, 44705
or repaired in accordance with those plans and any rule in effect 44706
at the time of approval. 44707

(E) The approval of plans and specifications, including 44708
inspection of industrialized units, under this section is a 44709
"license" and the failure to approve plans or specifications as 44710
submitted or to inspect the unit at the point of origin within 44711
thirty days after the plans or specifications are filed or the 44712
request to inspect the industrialized unit is made, the 44713

disapproval of plans and specifications, or the refusal to approve 44714
an industrialized unit following inspection at the point of origin 44715
is "an adjudication order denying the issuance of a license" 44716
requiring an "adjudication hearing" as provided by sections 119.07 44717
to 119.13 of the Revised Code and as modified by sections 3781.031 44718
and 3781.19 of the Revised Code. An adjudication order denying the 44719
issuance of a license shall specify the reasons for that denial. 44720

(F) The board of building standards shall not require the 44721
submission of site preparation plans or plot plans to the division 44722
of ~~labor~~ industrial compliance when industrialized units are used 44723
exclusively as one-, two-, or three-family dwellings. 44724

(G) Notwithstanding any procedures the board establishes, if 44725
the agency having jurisdiction objects to any portion of the plans 44726
or specifications, the owner or the owner's representative may 44727
request the agency to issue conditional approval to proceed with 44728
construction up to the point of the objection. Approval shall be 44729
issued only when the objection results from conflicting 44730
interpretations of the rules of the board of building standards 44731
rather than the application of specific technical requirements of 44732
the rules. Approval shall not be issued where the correction of 44733
the objection would cause extensive changes in the building design 44734
or construction. The giving of conditional approval is a 44735
"conditional license" to proceed with construction up to the point 44736
where the construction or materials objected to by the agency are 44737
to be incorporated into the building. No construction shall 44738
proceed beyond that point without the prior approval of the agency 44739
or another agency that conducts an adjudication hearing relative 44740
to the objection. The agency having jurisdiction shall specify its 44741
objections to the plans or specifications, which is an 44742
"adjudication order denying the issuance of a license" and may be 44743
appealed pursuant to sections 119.07 to 119.13 of the Revised Code 44744
and as modified by sections 3781.031 and 3781.19 of the Revised 44745

Code. 44746

(H) A certified municipal, township, or county building 44747
department having jurisdiction, or the superintendent, as 44748
appropriate, shall review any plans, drawings, specifications, or 44749
data described in this section that are submitted to it or to the 44750
superintendent. 44751

(I) No owner or persons having control as an officer, or as a 44752
member of a board or committee, or otherwise, of a building to 44753
which section 3781.06 of the Revised Code is applicable, and no 44754
architect, designer, engineer, builder, contractor, subcontractor, 44755
or any officer or employee of a municipal, township, or county 44756
building department shall violate this section. 44757

(J) Whoever violates this section shall be fined not more 44758
than five hundred dollars. 44759

Sec. 3791.05. No owner, lessee, agent, factor, architect, or 44760
contractor engaged in and having supervision or charge of the 44761
building, erection, or construction of a block, building, or 44762
structure, shall neglect or refuse to place or have placed upon 44763
the joists of each story thereof, as soon as joists are in 44764
position, counter floors of such quality and strength as to render 44765
perfectly safe the going to and from thereon of all mechanics, 44766
laborers, and other persons engaged upon the work of construction 44767
or supervision, or in placing materials for such construction. 44768

Whoever violates this section shall be fined not less than 44769
twenty-five nor more than two hundred dollars. 44770

Each day that such person neglects or refuses to have such 44771
counter floors so placed, after notice is given by a building 44772
inspector, a chief inspector, or deputy inspector of the city 44773
building inspection department in cities where such department is 44774
organized, or by the superintendent of ~~labor~~ industrial compliance 44775

of the state, in cities where such departments are not organized, 44776
or from a person whose life or personal safety may be endangered 44777
by such neglect or refusal, is a separate offense. 44778

Sec. 3791.07. (A) The board of building standards may 44779
establish such reasonable inspection fee schedules as it 44780
determines necessary or desirable relating to the inspection of 44781
all plans and specifications submitted for approval to the 44782
division of ~~labor~~ industrial compliance, and all industrialized 44783
units inspected at the point of origin and at the construction 44784
site of the building. The inspection fee schedule established 44785
shall bear some reasonable relationship to the cost of 44786
administering and enforcing the provisions of Chapters 3781. and 44787
3791. of the Revised Code. 44788

(B) In addition to the fee assessed in division (A) of this 44789
section, the board shall assess a fee of not more than five 44790
dollars for each application for acceptance and approval of plans 44791
and specifications and for making inspections pursuant to section 44792
3791.04 of the Revised Code. The board shall adopt rules, in 44793
accordance with Chapter 119. of the Revised Code, specifying the 44794
manner by which the superintendent of ~~labor~~ industrial compliance 44795
shall collect and remit to the board the fees assessed under this 44796
division and requiring that remittance of the fees be made at 44797
least quarterly. 44798

(C) Any person who fails to pay an inspection fee required 44799
for any inspection conducted by the department of commerce 44800
pursuant to Chapters 3781. and 3791. of the Revised Code, except 44801
for fees charged for the inspection of plans and specifications, 44802
within forty-five days after the inspection is conducted, shall 44803
pay a late payment fee equal to twenty-five per cent of the 44804
inspection fee. 44805

(D) The board shall pay the fees assessed under this section 44806

into the state treasury to the credit of the ~~labor~~ industrial 44807
compliance operating fund created in section 121.084 of the 44808
Revised Code. 44809

Sec. 3791.11. (A) As used in this section and sections 44810
3791.12 and 3791.13 of the Revised Code: 44811

(1) "Service station" means any facility designed and 44812
constructed primarily for use in the retail sale of gasoline, 44813
other petroleum products, and related accessories; except that 44814
"service station" does not include any such facility that has been 44815
converted for use for another bona fide business purpose, on and 44816
after the date of commencement of such other use. 44817

(2) "Abandoned service station" means any service station 44818
that has not been used for the retail sale of gasoline, other 44819
petroleum products, and related accessories for a continuous 44820
period of six months, whenever failure to reasonably secure 44821
station buildings from ready access by unauthorized persons and to 44822
reasonably maintain the station's premises has resulted in 44823
conditions that endanger the public health, welfare, safety, or 44824
morals; provided, that such conditions include, but are not 44825
limited to, the presence of defective or deteriorated electrical 44826
wiring, heating apparatus, and gas connections, or of unprotected 44827
gasoline storage tanks, piping, and valves, or any combination of 44828
the foregoing; and provided further that the casual and 44829
intermittent use of a service station for the retail sale of any 44830
item described in division (A)(1) of this section during such 44831
six-month period shall not be held to prevent the station from 44832
being determined an abandoned service station if it meets the 44833
other qualifications of this division. 44834

(B) No person shall construct, renew operation of, or 44835
continue operation of a service station unless, prior to the 44836
commencement of construction or renewed operation and during the 44837

period of continued operation, a valid bond is on file as provided 44838
in division (C) ~~or (D)~~ of this section. The bond shall be obtained 44839
by the owner of the property if ~~he~~ the owner is also the owner of 44840
the service station. If the owner of the property is not the owner 44841
of the service station, then the bond shall be obtained by the 44842
lessee of the property; except that such lessee shall be other 44843
than any person who leases and operates the service station 44844
pursuant to a contract with a supplier of gasoline and petroleum 44845
products. The bond shall identify and list the name and address of 44846
the property owner and any lessee other than a person who leases 44847
and operates the service station pursuant to a contract with a 44848
supplier of gasoline and petroleum products. 44849

(C) The bond required by division (B) of this section shall 44850
be filed annually with the executive authority of the municipal 44851
corporation in which the service station is, or is to be, located, 44852
or with the clerk of the board of county commissioners if the 44853
service station is not, or is not to be, located within a 44854
municipal corporation. The bond shall either be a cash bond or 44855
have sufficient sureties approved by the executive authority or 44856
clerk with whom it is filed. The bond shall be for a term of one 44857
year and shall be renewed annually. The bond shall be in the 44858
amount of three thousand dollars for each service station to 44859
provide for the repair or removal of the service station and its 44860
appurtenances and restoration of the property. The bond shall be 44861
conditioned upon the repair or removal of the service station and 44862
restoration of the property if the service station is determined 44863
to be an abandoned service station as provided in section 3791.12 44864
of the Revised Code. If the service station is determined to be an 44865
abandoned service station, and division (D) or (F) of section 44866
3791.12 of the Revised Code applies, the bond shall be forfeited 44867
and the proceeds applied to the costs of repair or removal and 44868
restoration as provided in section 3791.13 of the Revised Code. If 44869
the amount of the bond exceeds the costs of repair or removal and 44870

restoration, the excess shall be returned to the depositor. 44871

~~(D) Whenever a property owner or lessee, other than a person 44872
leasing and operating a service station pursuant to a contract 44873
with a supplier of gasoline and other petroleum products, owns, 44874
leases, or is constructing two or more service stations in this 44875
state, such owner or lessee may deposit with the treasurer of 44876
state, in lieu of the bond required by division (C) of this 44877
section, money or a surety bond approved by the treasurer in the 44878
amount of one hundred fifty thousand dollars, or bonds of the 44879
United States, this state, or of a political subdivision of this 44880
state, having a market value, as determined by the treasurer, of 44881
one hundred fifty thousand dollars. The bond or deposit shall 44882
cover all service stations owned in the state, being constructed, 44883
leased, or operated by the depositor and shall be conditioned upon 44884
the repair or removal of any such station and its appurtenances 44885
and restoration of the property, if the station is determined to 44886
be an abandoned service station as provided in section 3791.12 of 44887
the Revised Code. If any such service station is determined to be 44888
an abandoned service station, and division (D) or (F) of section 44889
3791.12 of the Revised Code applies, the portion of the bond or 44890
deposit required to pay the costs of repair or removal and 44891
restoration shall be forfeited and paid to the executive authority 44892
of the municipal corporation or to the board of county 44893
commissioners of the county, upon request therefor. If the surety 44894
refuses to pay the costs of repair or removal and restoration to 44895
the treasurer, the treasurer shall forthwith file an action on the 44896
bond in the amount certified by the executive authority or board 44897
as the costs of repair or removal and restoration, and shall pay 44898
to the executive authority or board the proceeds of any judgment. 44899
A bond or deposit shall remain valid as long as it is sufficient 44900
to cover one hundred thousand dollars of liability. If the bond or 44901
deposit is reduced to a lesser amount, it shall be invalid unless 44902
sufficient additional bond or deposit is provided to restore the 44903~~

~~amount of liability covered to one hundred fifty thousand dollars.~~ 44904

Sec. 3791.12. (A) The executive authority of each municipal 44905
corporation and the board of county commissioners of each county 44906
shall designate a suitable person to make inspections, within 44907
their respective territorial jurisdictions, of any service 44908
stations that are, or appear to be, no longer in use for the 44909
purposes described in division (A)(1) of section 3791.11 of the 44910
Revised Code, or for any other bona fide business purpose. 44911
Inspections of service stations under this section shall be made 44912
at the order of the executive authority or board, or upon the 44913
complaint of any person claiming to be adversely affected by the 44914
condition of a service station. Any inspector designated under 44915
this section shall have the right to enter upon and inspect any 44916
service station that is, or appears to be, no longer in use as 44917
described in this section. No inspector, while in the lawful 44918
pursuit of ~~his~~ official duties for such purpose, shall be subject 44919
to arrest for trespass while so engaged or for such cause 44920
thereafter. 44921

(B) Whenever an inspector, upon inspecting a service station 44922
as provided in this section, has reasonable cause to believe that 44923
it qualifies as an abandoned service station, ~~he~~ the inspector 44924
shall prepare a written report of the condition of the station's 44925
buildings and premises. The report shall be filed immediately with 44926
the executive authority or board. Upon receipt of the report, the 44927
executive authority or board shall fix a place and time, not less 44928
than thirty days nor more than sixty days after receipt of the 44929
report, for a hearing to determine whether the service station is 44930
an abandoned service station. The executive authority or board 44931
shall send written notice of the place and date of the hearing, 44932
together with a copy of the inspector's report and information 44933
that the service station may be ordered repaired or removed if 44934
determined to be abandoned, to all persons listed in the bond 44935

filed under division (C) ~~or (D)~~ of section 3791.11 of the Revised Code, and to all persons listed in the records of the county recorder or county clerk of courts as holding a lien on the affected property. Such notice shall be sent by certified mail to the address shown on such records.

(C) In hearing the matter and deciding the issue, the executive authority or board shall consider the testimony of any persons appearing pursuant to the notice, or their authorized representatives, the testimony of any witnesses appearing on behalf of such persons, the inspector's report or testimony, or both, and any other evidence pertinent to the matter. If the executive authority or board thereupon determines that the service station is an abandoned service station in such condition as to constitute a danger to the public health, welfare, safety, or morals, it shall order the satisfactory repair, or removal, of the service station and its appurtenances, and restoration of the property, within such period of time, not less than thirty days, as the executive authority or board thereupon determines reasonable. Notice of the findings and order shall be sent to all persons required to be notified by division (B) of this section in the same manner as provided in that division.

(D) If an abandoned service station is not satisfactorily repaired or removed within the period of time provided in an order made under division (C) of this section, the municipal corporation or county may enter the land and complete the repair, if repair was ordered, or remove the service station and its appurtenances, if removal was ordered, and restore the property.

(E) Any person aggrieved by an order of an executive authority or board made under division (C) of this section, may appeal as provided in Chapter 2506. of the Revised Code within thirty days of the mailing of notice of the order.

(F) In the event that no persons notified as provided in

division (B) of this section, or their authorized representatives, 44968
appear at the hearing, respond to an order of the executive 44969
authority or board, or appeal within thirty days of the mailing of 44970
notice of the order as provided in division (E) of this section, 44971
the municipal corporation or county may proceed as provided in 44972
division (D) of this section. 44973

Sec. 3793.04. The department of alcohol and drug addiction 44974
services shall develop, administer, and revise as necessary a 44975
comprehensive statewide alcohol and drug addiction services plan 44976
for the implementation of this chapter. The plan shall emphasize 44977
abstinence from the use of alcohol and drugs of abuse as the 44978
primary goal of alcohol and drug addiction services. The council 44979
on alcohol ~~and~~, drug, and gambling addiction services shall advise 44980
the department in the development and implementation of the plan. 44981

The plan shall provide for the allocation and distribution of 44982
funds appropriated to the department by the general assembly for 44983
services furnished by alcohol and drug addiction programs under 44984
contract with boards of alcohol, drug addiction, and mental health 44985
services. The department shall exclude from the allocation and 44986
distribution any funds that are transferred to the department of 44987
job and family services to pay the nonfederal share of alcohol and 44988
drug addiction services covered by the medicaid program. 44989

The plan shall specify the methodology that the department 44990
will use for determining how the funds will be allocated and 44991
distributed. A portion of the funds shall be allocated on the 44992
basis of the ratio of the population of each alcohol, drug 44993
addiction, and mental health service district to the total 44994
population of the state as determined from the most recent federal 44995
census or the most recent official estimate made by the United 44996
States census bureau. 44997

The plan shall ensure that alcohol and drug addiction 44998

services of a high quality are accessible to, and responsive to 44999
the needs of, all persons, especially those who are members of 45000
underserved groups, including, but not limited to, African 45001
Americans, Hispanics, native Americans, Asians, juvenile and adult 45002
offenders, women, veterans, and persons with special services 45003
needs due to age or disability. The plan shall include a program 45004
to promote and protect the rights of those who receive services. 45005

To aid in formulating the plan and in evaluating the 45006
effectiveness and results of alcohol and drug addiction services, 45007
the department, in consultation with the department of mental 45008
health, shall establish and maintain an information system or 45009
systems. The department of alcohol and drug addiction services 45010
shall specify the information that must be provided by boards of 45011
alcohol, drug addiction, and mental health services and by alcohol 45012
and drug addiction programs for inclusion in the system. The 45013
department shall not collect any personal information from the 45014
boards except as required or permitted by state or federal law for 45015
purposes related to payment, health care operations, program and 45016
service evaluation, reporting activities, research, system 45017
administration, and oversight. 45018

In consultation with boards, programs, and persons receiving 45019
services, the department shall establish guidelines for the use of 45020
funds allocated and distributed under this section and for the 45021
boards' development of plans for services required by sections 45022
340.033 and 3793.05 of the Revised Code. 45023

In any fiscal year, the department shall spend, or allocate 45024
to boards, for methadone maintenance programs or any similar 45025
programs not more than eight per cent of the total amount 45026
appropriated to the department for the fiscal year. 45027

Sec. 3793.041. The department of alcohol and drug addiction 45028
services shall develop, administer, and revise as necessary a 45029

comprehensive statewide gambling addiction services plan. The 45030
council on alcohol, drug, and gambling addiction services shall 45031
advise the department in the development and implementation of the 45032
plan. 45033

The plan shall provide for allocation and distribution of 45034
funds from the problem casino gambling and addictions fund 45035
described in Section 6(C)(3)(g) of Article XV, Ohio Constitution, 45036
and any funding to be distributed by the department for problem 45037
gambling. 45038

The plan shall specify the methodology that the department 45039
will use for determining how the funds will be allocated and 45040
distributed. A portion of the funds shall be allocated on the 45041
basis of the ratio of the population of each alcohol, drug 45042
addiction, and mental health service district to the total 45043
population of the state as determined from the most recent federal 45044
census or the most recent official estimate made by the United 45045
States census bureau. 45046

The plan shall ensure that gambling addiction services of a 45047
high quality are accessible to, and responsive to the needs of, 45048
all persons, especially those who are members of underserved 45049
groups, including, but not limited to, African Americans, 45050
Hispanics, native Americans, Asians, juvenile and adult offenders, 45051
women, veterans, and persons with special services needs due to 45052
age or disability. The plan shall include a program to promote and 45053
protect the rights of those who receive services. 45054

To aid in formulating the plan and in evaluating the 45055
effectiveness and results of gambling addiction services, the 45056
department, in consultation with the department of mental health, 45057
shall establish and maintain an information system or systems. The 45058
department of alcohol and drug addiction services shall specify 45059
the information that must be provided by boards of alcohol, drug 45060
addiction, and mental health services and by gambling addiction 45061

programs for inclusion in the system. The department shall not 45062
collect any personal information from the boards except as 45063
required or permitted by state or federal law for purposes related 45064
to payment, health care operations, program and service 45065
evaluation, reporting activities, research, system administration, 45066
and oversight. 45067

In consultation with boards, programs, and persons receiving 45068
services, the department shall establish guidelines for the use of 45069
funds allocated and distributed under this section. 45070

Sec. 3793.09. (A) There is hereby created the council on 45071
alcohol ~~and~~, drug, and gambling addiction services which shall 45072
consist of the public officials specified in division (B) of this 45073
section, or their designees, and ~~thirteen~~ fourteen members 45074
appointed by the governor with the advice and consent of the 45075
senate. The members appointed by the governor shall be 45076
representatives of the following: boards of alcohol, drug 45077
addiction, and mental health services; the criminal and juvenile 45078
justice systems; ~~and~~ alcohol and drug addiction programs; and 45079
gambling addiction programs. At least four of the appointed 45080
members shall be persons who have received or are receiving 45081
alcohol or drug addiction services or are parents or other 45082
relatives of such persons; of these at least two shall be women 45083
and at least one shall be a member of a minority ~~group.~~ 45084

~~The governor shall make initial appointments to the council~~ 45085
~~not later than thirty days after October 10, 1989. Of the initial~~ 45086
~~appointments, six shall be for terms ending July 31, 1991, and~~ 45087
~~seven shall be for terms ending July 31, 1992. Thereafter, terms~~ 45088
group. At least one appointed member shall be an individual who 45089
has received or is receiving gambling addiction services. 45090

Terms of office shall be two years, with each term ending on 45091
the same day of the same month as the term it succeeds. Each 45092

member shall hold office from the date of the member's appointment 45093
until the end of the term for which the member was appointed. 45094
Members may be reappointed. Vacancies shall be filled in the same 45095
manner as original appointments. Any member appointed to fill a 45096
vacancy occurring prior to the expiration of the term for which 45097
the member's predecessor was appointed shall hold office as a 45098
member for the remainder of the term. A member shall continue in 45099
office subsequent to the expiration of the member's term until the 45100
member's successor takes office or until a period of sixty days 45101
has elapsed, whichever occurs first. 45102

(B) The directors of health, public safety, mental health, 45103
rehabilitation and correction, and youth services; the 45104
superintendents of public instruction and liquor control; the 45105
attorney general; the adjutant general; ~~and~~ the executive director 45106
of the division of criminal justice services in the department of 45107
public safety; the executive director of the casino control 45108
commission; the executive director of the lottery commission; and 45109
the executive director of the state racing commission shall be 45110
voting members of the council, except that any of these officials 45111
may designate an individual to serve in the official's place as a 45112
voting member of the council. The director of alcohol and drug 45113
addiction services shall serve as a nonvoting member of the 45114
council. 45115

(C) The governor shall annually appoint a chairperson from 45116
among the members of the council. The council shall meet quarterly 45117
and at other times the chairperson considers necessary. In 45118
addition to other duties specified in this chapter, the council 45119
shall review the development of the comprehensive statewide plan 45120
for alcohol and drug addiction services, the comprehensive 45121
statewide plan for gambling addiction services, revisions of ~~the~~ 45122
~~plan~~ those plans, and other actions taken to implement the 45123
purposes of this chapter by the department of alcohol and drug 45124

addiction services and shall act as an advisory council to the 45125
director of alcohol and drug addiction services. 45126

(D) Members of the council shall serve without compensation, 45127
but shall be paid actual and necessary expenses incurred in the 45128
performance of their duties. 45129

Sec. 3798.01. As used in this chapter: 45130

(A) "Approved health information exchange" means a health 45131
information exchange that has been approved or reapproved by the 45132
director of job and family services pursuant to the approval or 45133
reapproval process, as applicable, the director establishes in 45134
rules adopted under division (A) of section 3798.15 of the Revised 45135
Code or that has been certified by the office of the national 45136
coordinator for health information technology in the United States 45137
department of health and human services. 45138

(B) "Covered entity," "disclosure," "health care provider," 45139
"health information," "individually identifiable health 45140
information," "protected health information," and "use" have the 45141
same meanings as in 45 C.F.R. 160.103. 45142

(C) "Designated record set" has the same meaning as in 45 45143
C.F.R. 164.501. 45144

(D) "Direct exchange" means the activity of electronic 45145
transmission of health information through a direct connection 45146
between the electronic record systems of health care providers 45147
without the use of a health information exchange. 45148

(E) "Health care component" and "hybrid entity" have the same 45149
meanings as in 45 C.F.R. 164.103. 45150

(F) "Health information exchange" means any person or 45151
governmental entity that provides in this state a technical 45152
infrastructure to connect computer systems or other electronic 45153
devices used by covered entities to facilitate the secure 45154

transmission of health information. "Health information exchange" 45155
excludes health care providers engaged in direct exchange, 45156
including direct exchange through the use of a health information 45157
service provider. 45158

(G) "HIPAA privacy rule" means the standards for privacy of 45159
individually identifiable health information in 45 C.F.R. part 160 45160
and in 45 C.F.R. part 164, subparts A and E. 45161

(H) "Interoperability" means the capacity of two or more 45162
information systems to exchange information in an accurate, 45163
effective, secure, and consistent manner. 45164

(I) "Minor" means an unemancipated person under eighteen 45165
years of age or a mentally or physically disabled person under 45166
twenty-one years of age who meets criteria specified in rules 45167
adopted by the director of job and family services under section 45168
3798.13 of the Revised Code. 45169

(J) "More stringent" has the same meaning as in 45 C.F.R. 45170
160.202. 45171

(K) "Office of health transformation" means the office of 45172
health transformation created by executive order 2011-02K or a 45173
successor governmental entity responsible for health system 45174
oversight in this state. 45175

(L) "Personal representative" means a person who has 45176
authority under applicable law to make decisions related to health 45177
care on behalf of an adult or emancipated minor, or the parent, 45178
legal guardian, or other person acting in loco parentis who is 45179
authorized under law to make health care decisions on behalf of an 45180
unemancipated minor. "Personal representative" does not include 45181
the parent or legal guardian of, or another person acting in loco 45182
parentis to, a minor who consents to the minor's own receipt of 45183
health care or a minor who makes medical decisions on the minor's 45184
own behalf pursuant to law, court approval, or because the minor's 45185

parent, legal guardian, or other person acting in loco parentis 45186
has assented to an agreement of confidentiality between the 45187
provider and the minor. 45188

(M) "Political subdivision" means a municipal corporation, 45189
township, county, school district, or other body corporate and 45190
politic responsible for governmental activities in a geographic 45191
area smaller than that of the state. 45192

(N) "State agency" means any one or more of the following: 45193

(1) The department of aging; 45194

(2) The department of alcohol and drug addiction services; 45195

(3) The department of developmental disabilities; 45196

(4) The department of education; 45197

(5) The department of health; 45198

(6) The department of insurance; 45199

(7) The department of job and family services; 45200

(8) The department of mental health; 45201

(9) The department of rehabilitation and correction; 45202

(10) The department of youth services; 45203

(11) The bureau of workers' compensation; 45204

(12) The rehabilitation services commission; 45205

(13) The office of the attorney general; 45206

(14) A health care licensing board created under Title XLVII 45207
of the Revised Code that possesses individually identifiable 45208
health information. 45209

Sec. 3798.02. It is the intent of the general assembly in 45210
enacting this chapter to make the laws of this state governing the 45211
use and disclosure of protected health information by covered 45212

entities consistent with, but generally not more stringent than, 45213
the HIPAA privacy rule for the purpose of eliminating barriers to 45214
the adoption and use of electronic health records and health 45215
information exchanges. Therefore, it is also the general 45216
assembly's intent in enacting this chapter to supersede any 45217
judicial or administrative ruling issued in this state that is 45218
inconsistent with the provisions of this chapter. 45219

Sec. 3798.03. (A) Subject to division (B) of this section, a 45220
covered entity shall do both of the following: 45221

(1) If an individual's protected health information is 45222
maintained by the covered entity in a designated record set, 45223
provide the individual or the individual's personal representative 45224
with access to that information in a manner consistent with 45 45225
C.F.R. 164.524; 45226

(2) Implement and maintain appropriate administrative, 45227
technical, and physical safeguards to protect the privacy of 45228
protected health information in a manner consistent with 45 C.F.R. 45229
164.530(c). 45230

(B) If a covered entity is a hybrid entity, this section 45231
applies only to the health care component of the covered entity. 45232

Sec. 3798.04. A covered entity shall not do either of the 45233
following: 45234

(A) Use or disclose protected health information without an 45235
authorization that is valid under 45 C.F.R. 164.508 and, if 45236
applicable, 42 C.F.R. part 2, except when the use or disclosure is 45237
required or permitted without such authorization by Subchapter C 45238
of Subtitle A of Title 45 of the Code of Federal Regulations and, 45239
if applicable, 42 C.F.R. part 2; 45240

(B) Use or disclose protected health information in a manner 45241

that is not consistent with 45 C.F.R. 164.502. 45242

Sec. 3798.06. Except in the circumstances described in 45243
division (A) of section 3798.04 of the Revised Code when a covered 45244
entity is permitted to disclose protected health information 45245
without an authorization that is valid under 45 C.F.R. 164.508, a 45246
covered entity shall not disclose protected health information to 45247
a health information exchange without an authorization described 45248
in division (A) of section 3798.04 of the Revised Code unless all 45249
of the following are true: 45250

(A) The disclosure is to an approved health information 45251
exchange. 45252

(B) The covered entity is a party to a valid participation 45253
agreement with the approved health information exchange that meets 45254
the requirements of rules adopted under section 3798.16 of the 45255
Revised Code. 45256

(C) The disclosure is consistent with all procedures 45257
established by the approved health information exchange. 45258

(D) Prior to the disclosure, the covered entity furnishes to 45259
the individual or individual's personal representative a written 45260
notice that complies with rules adopted under division (A)(3) of 45261
section 3798.16 of the Revised Code. 45262

Sec. 3798.07. (A) In addition to being subject to the general 45263
prohibition in section 3798.06 of the Revised Code on disclosure 45264
of protected health information to a health information exchange 45265
without a valid authorization, a covered entity shall also be 45266
subject to the following conditions when it discloses protected 45267
health information to a health information exchange: 45268

(1) The covered entity shall restrict disclosure consistent 45269
with all applicable federal laws governing the disclosure; 45270

(2) If the protected health information concerns a minor, the covered entity shall restrict disclosure in a manner that complies with laws of this state pertaining to the circumstances under which a minor may consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of the Revised Code unless the minor authorizes the disclosure. 45271
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(3) The covered entity shall restrict disclosure in a manner that is consistent with a written request from the individual or the individual's personal representative to restrict disclosure of all of the individual's protected health information. 45279
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(4) The covered entity shall restrict disclosure in a manner that is consistent with a written request from the individual or the individual's personal representative concerning specific categories of protected health information to the extent that rules adopted pursuant to section 3798.16 of the Revised Code require the covered entity to comply with such a request. 45283
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(B) The conditions in division (A) of this section on a covered entity's disclosure of protected health information to a health information exchange do not render unenforceable or restrict in any manner any of the following: 45289
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(1) A provision of the Revised Code that on the effective date of this section requires a person or governmental entity to disclose protected health information to a state agency, political subdivision, or other governmental entity; 45293
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(2) The confidential status of proceedings and records within the scope of a peer review committee of a health care entity as described in section 2305.252 of the Revised Code; 45297
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(3) The confidential status of quality assurance program activities and quality assurance records as described in section 45300
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| <u>5122.32 of the Revised Code;</u> | 45302 |
| <u>(4) The testimonial privilege established by division (B) of section 2317.02 of the Revised Code;</u> | 45303 |
| | 45304 |
| <u>(5) Any of the following items that govern the confidentiality, privacy, security, or privileged status of protected health information in the possession or custody of an agency; govern the process for obtaining from a patient consent to the provision of health care or consent for participation in medical or other scientific research; govern the process for determining whether an adult has a physical or mental impairment or an adult's capacity to make health care decisions for purposes of Chapter 5126. of the Revised Code; or govern the process for determining whether a minor has been emancipated:</u> | 45305 |
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| <u>(a) A section of the Revised Code that is not in this chapter;</u> | 45315 |
| | 45316 |
| <u>(b) A rule as defined in section 119.01 of the Revised Code;</u> | 45317 |
| <u>(c) An internal management rule as defined in section 111.15 of the Revised Code;</u> | 45318 |
| | 45319 |
| <u>(d) Guidance issued by an agency;</u> | 45320 |
| <u>(e) Orders or regulations of a board of health of a city health district made under section 3709.20 of the Revised Code;</u> | 45321 |
| | 45322 |
| <u>(f) Orders or regulations of a board of health of a general health district made under section 3709.21 of the Revised Code;</u> | 45323 |
| | 45324 |
| <u>(g) An ordinance or resolution adopted by a political subdivision;</u> | 45325 |
| | 45326 |
| <u>(h) A professional code of ethics;</u> | 45327 |
| <u>(i) When a minor is authorized to consent to the minor's own receipt of health care or make medical decisions on the minor's own behalf, including the circumstances described in sections 2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of</u> | 45328 |
| | 45329 |
| | 45330 |
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the Revised Code. 45332

Sec. 3798.08. (A) A covered entity that uses or discloses 45333
protected health information in a manner that complies with 45334
sections 3798.03 and 3798.07 of the Revised Code and is not in 45335
violation of section 3798.04 or 3798.06 of the Revised Code is not 45336
liable in a civil action and is not subject to criminal 45337
prosecution or professional disciplinary action arising out of or 45338
relating to the access or disclosure. 45339

(B) An approved health information exchange is not liable in 45340
a civil action and not subject to criminal prosecution arising out 45341
of or relating to a covered entity's disclosure of protected 45342
health information to the approved health information exchange, or 45343
use of protected health information accessed from the approved 45344
health information exchange, if the disclosure or use complies 45345
with sections 3798.03 and 3798.07 of the Revised Code and is not 45346
in violation of section 3798.04 or 3798.06 of the Revised Code. 45347

Sec. 3798.10. (A) Not later than six months after the 45348
effective date of this section, the director of job and family 45349
services, in consultation with the office of health 45350
transformation, shall prescribe by rules adopted in accordance 45351
with Chapter 119. of the Revised Code a standard authorization 45352
form for the use and disclosure of protected health information by 45353
covered entities in this state. The form shall meet all 45354
requirements specified in 45 C.F.R. 164.508 and, where applicable, 45355
42 C.F.R. part 2. 45356

(B) If a form the director prescribes under division (A) of 45357
this section is properly executed by an individual or the 45358
individual's personal representative, it shall be accepted by any 45359
person or governmental entity in this state as valid authorization 45360
for the use or disclosure of the individual's protected health 45361

information to the persons or governmental entities specified in 45362
the form. 45363

(C) This section does not preclude a person or governmental 45364
entity from accepting as valid authorization for the use or 45365
disclosure of protected health information a form other than the 45366
form prescribed under division (A) of this section if the other 45367
form meets all requirements specified in 45 C.F.R. 164.508 and, if 45368
applicable, 42 C.F.R. part 2. 45369

Sec. 3798.12. As used in this section, "agency" has the same 45370
meaning as in section 111.15 of the Revised Code. 45371

(A) Except as provided in division (B) of this section, any 45372
of the following pertaining to the confidentiality, privacy, 45373
security, or privileged status of protected health information 45374
transacted, maintained in, or accessed through a health 45375
information exchange is unenforceable if it conflicts with this 45376
chapter: 45377

(1) A section of the Revised Code that is not in this 45378
chapter; 45379

(2) A rule as defined in section 119.01 of the Revised Code; 45380

(3) An internal management rule as defined in section 111.15 45381
of the Revised Code; 45382

(4) Guidance issued by an agency; 45383

(5) Orders or regulations of a board of health of a city 45384
health district made under section 3709.20 of the Revised Code; 45385

(6) Orders or regulations of a board of health of a general 45386
health district made under section 3709.21 of the Revised Code; 45387

(7) An ordinance or resolution adopted by a political 45388
subdivision; 45389

(8) A professional code of ethics. 45390

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| <u>(B) Division (A) of this section does not render</u> | 45391 |
| <u>unenforceable or restrict in any manner any of the following:</u> | 45392 |
| <u>(1) A provision of the Revised Code that on the effective</u> | 45393 |
| <u>date of this section requires a person or governmental entity to</u> | 45394 |
| <u>disclose protected health information to a state agency, political</u> | 45395 |
| <u>subdivision, or other governmental entity;</u> | 45396 |
| <u>(2) The confidential status of proceedings and records within</u> | 45397 |
| <u>the scope of a peer review committee of a health care entity as</u> | 45398 |
| <u>described in section 2305.252 of the Revised Code;</u> | 45399 |
| <u>(3) The confidential status of quality assurance program</u> | 45400 |
| <u>activities and quality assurance records as described in section</u> | 45401 |
| <u>5122.32 of the Revised Code;</u> | 45402 |
| <u>(4) The testimonial privilege established by division (B) of</u> | 45403 |
| <u>section 2317.02 of the Revised Code;</u> | 45404 |
| <u>(5) An item described in divisions (A)(1) to (8) of this</u> | 45405 |
| <u>section that governs any of the following:</u> | 45406 |
| <u>(a) The confidentiality, privacy, security, or privileged</u> | 45407 |
| <u>status of protected health information in the possession or</u> | 45408 |
| <u>custody of an agency;</u> | 45409 |
| <u>(b) The process for obtaining from a patient consent to the</u> | 45410 |
| <u>provision of health care or consent for participation in medical</u> | 45411 |
| <u>or other scientific research;</u> | 45412 |
| <u>(c) The process for determining whether an adult has a</u> | 45413 |
| <u>physical or mental impairment or an adult's capacity to make</u> | 45414 |
| <u>health care decisions for purposes of Chapter 5126. of the Revised</u> | 45415 |
| <u>Code;</u> | 45416 |
| <u>(d) The process for determining whether a minor has been</u> | 45417 |
| <u>emancipated.</u> | 45418 |
| <u>(6) When a minor is authorized to consent to the minor's own</u> | 45419 |
| <u>receipt of health care or make medical decisions on the minor's</u> | 45420 |

own behalf, including the circumstances described in sections 45421
2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of 45422
the Revised Code. 45423

Sec. 3798.13. The director of job and family services shall 45424
adopt rules for purposes of specifying the criteria a person who 45425
is mentally or physically disabled and who is under twenty-one 45426
years of age must meet to be considered a minor for purposes of 45427
sections 3798.07 and 3798.12 of the Revised Code. 45428

Sec. 3798.14. (A) The director of job and family services, in 45429
consultation with the office of health transformation, shall adopt 45430
rules in accordance with Chapter 119. of the Revised Code for the 45431
purpose of establishing standards the director must use to approve 45432
health information exchanges operating in this state. The rules 45433
shall not be adopted until the earlier of sixty days following the 45434
adoption of a federal certification process for health information 45435
exchanges by the office of the national coordinator for health 45436
information technology in the United States department of health 45437
and human services or January 1, 2013. Subject to division (B) of 45438
this section, the rules may include standards and procedures to be 45439
followed by a health information exchange regarding the following: 45440

(1) Access to and use and disclosure of protected health 45441
information maintained by or on an approved health information 45442
exchange; 45443

(2) Demonstration of adequate financial resources to sustain 45444
continued operations in compliance with the rules adopted under 45445
this section; 45446

(3) Participation in outreach activities for individuals and 45447
covered entities; 45448

(4) Conduct of operations in a transparent manner to promote 45449
consumer confidence; 45450

(5) Implementation of security breach notification 45451
procedures. 45452

(B) The rules the director adopts pursuant to division (A) of 45453
this section shall be consistent with certification standards for 45454
health information exchanges established in federal statutes and 45455
regulations, including nationally recognized standards for 45456
interoperability. 45457

Sec. 3798.15. (A) The director of job and family services, in 45458
consultation with the office of health transformation, shall adopt 45459
rules in accordance with Chapter 119. of the Revised Code for the 45460
purpose of establishing processes for all of the following: 45461
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(1) A health information exchange to obtain approval to 45463
operate as an approved health information exchange in this state 45464
and, at times specified by the director, obtain reapproval of such 45465
status; 45466

(2) The director to investigate and resolve concerns and 45467
complaints submitted to the director regarding an approved health 45468
information exchange; 45469

(3) A health information exchange to apply for 45470
reconsideration of a decision the director makes under a process 45471
established under division (A)(1) or (2) of this section; 45472

(4) Covered entities and approved health information 45473
exchanges to enter into participation agreements and enforce the 45474
terms of such agreements. 45475

(B) Any decision the director makes in relation to a request 45476
for reconsideration made in accordance with rules adopted under 45477
division (A)(3) of this section is not subject to appeal under 45478
Chapter 119. of the Revised Code. 45479

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 purpose of specifying the content of agreements governing covered entities' participation in approved health information exchanges. At a minimum, the rules shall require the content of such participation agreements to include all of the following:

(1) Procedures for a covered entity to disclose an individual's protected health information to an approved health information exchange;

(2) Procedures for a covered entity to access an individual's protected health information from an approved health information exchange;

(3) Subject to division (B) of this section, a written notice to be provided by a covered entity to an individual or the individual's personal representative prior to the covered entity's disclosure of the individual's protected health information to an approved health information exchange;

(4) Documentation the covered entity must use to verify that a notice described in division (A)(3) of this section has been provided by the covered entity to an individual or the individual's personal representative prior to the disclosure of the individual's protected health information to an approved health information exchange;

(5) Procedures, which must take into consideration the technical capabilities of software available to health information exchanges, for an individual or the individual's personal representative to submit to the covered entity a written request to place restrictions on the covered entity's disclosure of protected health information to the approved health information exchange;

(6) The standards a covered entity must use to determine whether, and to what extent, to comply with a written request described in division (A)(5) of this section; 45511
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(7) The purposes for which a covered entity may access and use protected health information from the approved health information exchange. 45514
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(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: 45517
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(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. 45522
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(2) The approved health information exchange maintains appropriate safeguards to protect the privacy and security of protected health information. 45525
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(3) Only authorized individuals may access and use protected health information from the approved health information exchange. 45528
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(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: 45530
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(a) Not disclose any of the individual's protected health information to the approved health information exchange; 45533
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(b) Not disclose specific categories of the individual's protected health information to the approved health information exchange. 45535
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(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 45538
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provider not having access to information that is necessary for 45541
the provider to render appropriate care to the individual. 45542

(6) Any restrictions on the disclosure of protected health 45543
information an individual requests as described in division 45544
(B)(4)(a) of this section must be honored by the covered entity. 45545

(7) Any restrictions on the disclosure of protected health 45546
information an individual requests as described in division 45547
(B)(4)(b) of this section must be honored if the restriction is 45548
consistent with rules adopted under this chapter. 45549

Sec. 3905.36. (A) Every insured association, company, 45550
corporation, or other person that enters, directly or indirectly, 45551
into any independent procurement or direct placement agreement 45552
with any insurance company, association, individual, firm, 45553
underwriter, or Lloyd's, not authorized to do business in this 45554
state, whereby the insured shall procure, continue, or renew 45555
contracts of insurance with such unauthorized insurance company, 45556
association, individual, firm, underwriter, or Lloyd's, for which 45557
insurance there is a gross premium, shall file the details of the 45558
transaction annually, on or before the thirty-first day of March, 45559
and shall at the same time pay to the treasurer of state, or the 45560
treasurer's designee, a tax of five per cent of such gross 45561
premium, after a deduction for return premium, if any, as 45562
calculated in the prescribed format or in compliance with any 45563
requirements of the compact entered into by the superintendent 45564
pursuant to division (D) of section 3905.33 of the Revised Code. 45565
An insurer may submit the required details of the transaction and 45566
remit the tax payment on behalf of an insured. 45567

All taxes collected under this section shall be paid into the 45568
general revenue fund. If the tax is not paid when due, the tax 45569
shall be increased by a penalty of twenty-five per cent. An 45570
interest charge computed as set forth in section 5725.221 of the 45571

Revised Code shall be made on the entire sum of the tax plus 45572
penalty, which interest shall be computed from the date the tax is 45573
due until it is paid. For purposes of this section, payment is 45574
considered made when it is received by the treasurer or the 45575
treasurer's designee, irrespective of any United States postal 45576
service marking or other stamp or mark indicating the date on 45577
which the payment may have been mailed. 45578

The superintendent of insurance, in the superintendent's sole 45579
discretion, may waive the twenty-five per cent penalty and 45580
interest charge thereon for a first-time, inadvertent nonpayment 45581
of the tax when due if the nonpayment is reported immediately upon 45582
discovery and the outstanding tax is thereafter immediately paid 45583
to the superintendent. 45584

(B) Each person licensed under section 3905.30 of the Revised 45585
Code shall pay to the treasurer of state or the treasurer's 45586
designee, on or before the thirty-first day of March of each year, 45587
five per cent of the balance of the gross premiums charged for 45588
insurance placed or procured under the license after a deduction 45589
for return premiums in the prescribed format or in compliance with 45590
any requirements of the compact entered into by the superintendent 45591
pursuant to division (D) of section 3905.33 of the Revised Code. 45592
The tax shall be collected from the insured by the surplus lines 45593
broker who placed or procured the policy of insurance at the time 45594
the policy is delivered to the insured. No license issued under 45595
section 3905.30 of the Revised Code shall be renewed until payment 45596
is made. If the tax is not paid when due, the tax shall be 45597
increased by a penalty of twenty-five per cent. An interest charge 45598
computed as set forth in section 5725.221 of the Revised Code 45599
shall be made on the entire sum of the tax plus penalty, which 45600
interest shall be computed from the date the tax is due until it 45601
is paid. For purposes of this section, payment is considered made 45602
when it is received by the treasurer or the treasurer's designee, 45603

irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

The superintendent, in the superintendent's sole discretion, may waive the twenty-five per cent penalty and interest charge thereon for a first-time, inadvertent nonpayment of the tax when due if the nonpayment is reported immediately upon discovery and the outstanding tax is thereafter immediately paid to the superintendent.

(C) This section does not apply to:

(1) An insured otherwise exempt from the payment of premium or franchise taxes under state or federal law;

(2) Attorneys-at-law acting on behalf of their clients in the adjustment of claims or losses;

(3) Transactions involving policies issued by a captive insurer. For this purpose, a "captive insurer" means any of the following:

(a) An insurer owned by one or more individuals or organizations, whose exclusive purpose is to insure risks of one or more of the parent organizations or individual owners and risks of one or more affiliates of the parent organizations or individual owners;

(b) In the case of groups and associations, insurers owned by the group or association whose exclusive purpose is to insure risks of members of the group or association and affiliates of the members;

(c) Other types of insurers, licensed and operated in accordance with the captive insurance laws of their jurisdictions of domicile and operated in a manner so as to self-insure risks of their owners and insureds.

(4) Professional or medical liability insurance procured by a hospital organized under Chapter 3701. of the Revised Code; 45634
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(5) Insurance with an initial policy period of more than three years and that is procured to cover known events related to environmental remediation that occurred prior to the effective date of that insurance; 45636
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(6) Insurance procured on behalf of an entity that manufactures, packages, and sells, as more than fifty per cent of the entity's business, pharmaceutical products for human use where the production, packaging, and sale of such products are subject to regulation by an agency of the United States; 45640
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(7) A political subdivision or any combination or consortium of two or more political subdivisions. 45645
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(D) As used in this section: 45647

(1) "Political subdivision" means any county; municipal corporation; township; township police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2151.65 and 2152.41 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a union cemetery district; a county school financing district; a city, local, exempted village, cooperative education, or joint vocational school district; or a regional student education district created under section 3313.83 of the Revised Code, any public division, district, commission, authority, department, board, officer, or 45648
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institution of any one or more of those political subdivisions, 45665
that is entirely or substantially supported by public tax moneys. 45666

(2) "Municipal corporation" means all municipal corporations, 45667
including those that have adopted a charter under Article XVIII, 45668
Ohio Constitution. 45669

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and 45670
section 4104.99 of the Revised Code: 45671

(A) "Board of building standards" or "board" means the board 45672
established by section 3781.07 of the Revised Code. 45673

(B) "Superintendent" means the superintendent of ~~labor~~ 45674
industrial compliance created by section 121.04 of the Revised 45675
Code. 45676

(C) "Boiler" means a closed vessel in which water is heated, 45677
steam is generated, steam is superheated, or any combination 45678
thereof, under pressure or vacuum for use externally to itself by 45679
the direct application of heat from the combustion of fuels, or 45680
from electricity or nuclear energy. "Boiler" includes fired units 45681
for heating or vaporizing liquids other than water where these 45682
units are separate from processing systems and are complete within 45683
themselves. 45684

(D) "Power boiler" means a boiler in which steam or other 45685
vapor (to be used externally to itself) is generated at a pressure 45686
of more than fifteen psig. 45687

(E) "High pressure, high temperature water boiler" means a 45688
water heating boiler operating at pressures exceeding one hundred 45689
sixty psig or temperatures exceeding two hundred fifty degrees 45690
Fahrenheit. 45691

(F) "Low pressure boiler" means a steam boiler operating at 45692
pressures not exceeding fifteen psig, or a hot water heating 45693
boiler operating at pressures not exceeding one hundred sixty psig 45694

or temperatures not exceeding two hundred fifty degrees 45695
Fahrenheit. 45696

(G) "Pressure vessel" means a container for the containment 45697
of pressure, either internal or external. This pressure may be 45698
obtained from an external source or by the application of heat 45699
from a direct or indirect source or any combination thereof. 45700

(H) "Process boiler" means a boiler to which all of the 45701
following apply: 45702

(1) The steam in the boiler is either generated or 45703
superheated, or both, under pressure or vacuum for use external to 45704
itself. 45705

(2) The source of heat for the boiler is in part or in whole 45706
from a process other than the boiler itself. 45707

(3) The boiler is part of a continuous processing unit, such 45708
as used in chemical manufacture or petroleum refining, other than 45709
a steam-generated process unit. 45710

(I) "Stationary steam engine" means an engine or turbine in 45711
which the mechanical force arising from the elasticity and 45712
expansion action of steam or from its property of rapid 45713
condensation or from a combination of the two is made available as 45714
a motive power. 45715

Sec. 4104.02. The board of building standards shall: 45716

(A) Formulate rules for the construction, installation, 45717
repair, conservation of energy, and operation of boilers and the 45718
construction and repair of pressure vessels and for ascertaining 45719
the safe working pressures to be carried on such boilers and 45720
pressure vessels and the qualification of inspectors of boilers 45721
and pressure vessels; 45722

(B) Prescribe tests, if it is considered necessary, to 45723
ascertain the qualities of materials used in the construction of 45724

boilers and pressure vessels; 45725

(C) Adopt rules regulating the construction and sizes of 45726
safety valves for boilers and pressure vessels of different sizes 45727
and pressures, for the construction, use, and location of fusible 45728
plugs, appliances for indicating the pressure of steam and level 45729
of water in the boiler or pressure vessels, and such other 45730
appliances as the board considers necessary to safety in operating 45731
boilers; 45732

(D) Establish reasonable fees for the performance of reviews, 45733
surveys, or audits of manufacturer's facilities by the division of 45734
~~labor~~ industrial compliance for certification by the American 45735
society of mechanical engineers and the national board of boiler 45736
and pressure vessel inspectors; 45737

(E) The definitions and rules adopted by the board for the 45738
construction, installation, repair, conservation of energy, and 45739
operation of boilers and the construction and repair of pressure 45740
vessels and for ascertaining the safe working pressures to be used 45741
on such boilers and pressure vessels shall be based upon and 45742
follow generally accepted engineering standards, formulae, and 45743
practices established and pertaining to boilers and pressure 45744
vessel construction, operation, and safety, and the board may, for 45745
this purpose, adopt existing published standards as well as 45746
amendments thereto subsequently published by the same authority. 45747

When a person desires to manufacture a special type of boiler 45748
or pressure vessel, the design of which is not covered by the 45749
rules of the board, the person shall submit drawings and 45750
specifications of such boiler or pressure vessel to the board for 45751
investigation, after which the board may permit its installation. 45752

The provisions of sections 119.03 and 119.11 of the Revised 45753
Code in particular, and the applicable provisions of Chapter 119. 45754
of the Revised Code in general, shall govern the proceedings of 45755

the board of building standards in adopting, amending, or 45756
rescinding rules pursuant to this section. 45757

Sec. 4104.06. (A) The inspection of boilers and their 45758
appurtenances and pressure vessels shall be made by the inspectors 45759
mentioned in sections 4104.07 to 4104.20 of the Revised Code. The 45760
superintendent of ~~labor~~ industrial compliance shall administer and 45761
enforce such sections and rules adopted by the board of building 45762
standards pursuant to section 4104.02 of the Revised Code. 45763

(B) The superintendent shall adopt, amend, and repeal rules 45764
exclusively for the issuance, renewal, suspension, and revocation 45765
of certificates of competency and certificates of operation, for 45766
conducting hearings in accordance with Chapter 119. of the Revised 45767
Code related to these actions, and for the inspection of boilers 45768
and their appurtenances, and pressure vessels. 45769

(C) Notwithstanding division (B) of this section, the 45770
superintendent shall not adopt rules relating to construction, 45771
maintenance, or repair of boilers and their appurtenances, or 45772
repair of pressure vessels. 45773

(D) The superintendent and each general inspector may enter 45774
any premises and any building or room at all reasonable hours to 45775
perform an examination or inspection. 45776

Sec. 4104.07. (A) An application for examination as an 45777
inspector of boilers and pressure vessels shall be in writing, 45778
accompanied by a fee of one hundred fifty dollars, upon a blank to 45779
be furnished by the superintendent of ~~labor~~ industrial compliance. 45780
Any moneys collected under this section shall be paid into the 45781
state treasury to the credit of the ~~labor~~ industrial compliance 45782
operating fund created in section 121.084 of the Revised Code. 45783

(B) The superintendent shall determine if an applicant meets 45784
all the requirements for examination in accordance with rules 45785

adopted by the board of building standards under section 4104.02 45786
of the Revised Code. An application shall be rejected which 45787
contains any willful falsification, or untruthful statements. 45788

(C) An applicant shall be examined by the superintendent, by 45789
a written examination, prescribed by the board, dealing with the 45790
construction, installation, operation, maintenance, and repair of 45791
boilers and pressure vessels and their appurtenances, and the 45792
applicant shall be accepted or rejected on the merits of the 45793
applicant's application and examination. 45794

(D) Upon a favorable report by the superintendent of the 45795
result of an examination, the superintendent shall immediately 45796
issue to the successful applicant a certificate of competency to 45797
that effect. 45798

Sec. 4104.08. (A) The director of commerce may appoint from 45799
the holders of certificates of competency provided for in section 45800
4104.07 of the Revised Code, general inspectors of boilers and 45801
pressure vessels. 45802

(B) Any company authorized to insure boilers and pressure 45803
vessels against explosion in this state may designate from holders 45804
of certificates of competency issued by the superintendent of 45805
~~labor~~ industrial compliance, or holders of certificates of 45806
competency or commissions issued by other states or nations whose 45807
examinations for certificates or commissions have been approved by 45808
the board of building standards, persons to inspect and stamp 45809
boilers and pressure vessels covered by the company's policies, 45810
and the superintendent shall issue to such persons commissions 45811
authorizing them to act as special inspectors. Special inspectors 45812
shall be compensated by the company designating them. 45813

(C) The director shall establish an annual fee to be charged 45814
by the superintendent for each certificate of competency or 45815
commission the superintendent issues. 45816

(D) The superintendent shall issue to each general or special 45817
inspector a commission to the effect that the holder thereof is 45818
authorized to inspect boilers and pressure vessels in this state. 45819

(E) No person shall be authorized to act as a general 45820
inspector or a special inspector who is directly or indirectly 45821
interested in the manufacture or sale of boilers or pressure 45822
vessels. 45823

Sec. 4104.09. The certificate of competency issued under 45824
section 4104.07 of the Revised Code or the commission provided for 45825
in section 4104.08 of the Revised Code may be revoked by the 45826
superintendent of ~~labor~~ industrial compliance for the incompetence 45827
or untrustworthiness of the holder thereof, or for willful 45828
falsification of any matter or statement contained in the holder's 45829
application or in a report of any inspection in accordance with 45830
Chapter 119. of the Revised Code. If a certificate or commission 45831
is lost or destroyed, a new certificate or commission shall be 45832
issued in its place without another examination. 45833

Sec. 4104.10. All unfired pressure vessels, except unfired 45835
pressure vessels exempt under section 4104.04 of the Revised Code, 45836
shall be thoroughly inspected during fabrication and upon 45837
completion and shall not be operated until a copy of the 45838
manufacturers' data report, properly executed and signed by the 45839
inspector is filed in the office of the superintendent of ~~labor~~ 45840
industrial compliance. All unfired pressure vessels shall conform 45841
in every detail with applicable rules adopted by the board of 45842
building standards pursuant to section 4104.02 of the Revised 45843
Code. 45844

Sec. 4104.101. (A) No person shall install or make major 45845
repairs or modifications to any boiler without first registering 45846

to do so with the division of ~~labor~~ industrial compliance. 45847

(B) No person shall make any installation or major repair or 45848
modification of any boiler without first obtaining a permit to do 45849
so from the division. The permit application form shall provide 45850
the name and address of the owner, location of the boiler, and 45851
type of repair or modification that will be made. The application 45852
permit fee shall be one hundred dollars. 45853

(C) The superintendent of ~~labor~~ industrial compliance shall 45854
require annual registration of all contractors who install, make 45855
major repairs to, or modify any boiler. The board of building 45856
standards shall establish a reasonable fee to cover the cost of 45857
processing registrations. 45858

Sec. 4104.12. All boilers, except boilers mentioned in 45859
section 4104.04 of the Revised Code, shall be inspected when 45860
installed and shall not be operated until an appropriate 45861
certificate of operation has been issued by the superintendent of 45862
~~labor~~ industrial compliance. The certificate of operation required 45863
by this section shall not be issued for any boiler which has not 45864
been thoroughly inspected during construction and upon completion, 45865
by either a general or special inspector, and which does not 45866
conform in every detail with the rules adopted by the board of 45867
building standards and unless, upon completion, such boiler is 45868
distinctly stamped under such rules by such inspector. 45869

Sec. 4104.15. (A) All certificates of inspection for boilers, 45870
issued prior to October 15, 1965, are valid and effective for the 45871
period set forth in such certificates unless sooner withdrawn by 45872
the superintendent of ~~labor~~ industrial compliance. The owner or 45873
user of any such boiler shall obtain an appropriate certificate of 45874
operation for such boiler, and shall not operate such boiler, or 45875
permit it to be operated unless a certificate of operation has 45876

been obtained in accordance with section 4104.17 of the Revised Code. 45877
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(B) If, upon making the internal and external inspection 45879
required under sections 4104.11, 4104.12, and 4104.13 of the 45880
Revised Code, the inspector finds the boiler to be in safe working 45881
order, with the fittings necessary to safety, and properly set up, 45882
upon the inspector's report to the superintendent, the 45883
superintendent shall issue to the owner or user thereof, or renew, 45884
upon application and upon compliance with sections 4104.17 and 45885
4104.18 of the Revised Code, a certificate of operation which 45886
shall state the maximum pressure at which the boiler may be 45887
operated, as ascertained by the rules of the board of building 45888
standards. Such certificates shall also state the name of the 45889
owner or user, the location, size, and number of each boiler, and 45890
the date of issuance, and shall be so placed as to be easily read 45891
in the engine room or boiler room of the plant where the boiler is 45892
located, except that the certificate of operation for a portable 45893
boiler shall be kept on the premises and shall be accessible at 45894
all times. 45895

(C) If an inspector at any inspection finds that the boiler 45896
or pressure vessel is not in safe working condition, or is not 45897
provided with the fittings necessary to safety, or if the fittings 45898
are improperly arranged, the inspector shall immediately notify 45899
the owner or user and person in charge of the boiler and shall 45900
report the same to the superintendent who may revoke, suspend, or 45901
deny the certificate of operation and not renew the same until the 45902
boiler or pressure vessel and its fittings are put in condition to 45903
insure safety of operation, and the owner or user shall not 45904
operate the boiler or pressure vessel, or permit it to be operated 45905
until such certificate has been granted or restored. 45906

(D) If the superintendent or a general boiler inspector finds 45907
that a pressure vessel or boiler or a part thereof poses an 45908

explosion hazard that reasonably can be regarded as posing an 45909
imminent danger of death or serious physical harm to persons, the 45910
superintendent or the general boiler inspector shall seal the 45911
pressure vessel or boiler and order, in writing, the operator or 45912
owner of the pressure vessel or boiler to immediately cease the 45913
pressure vessel's or boiler's operation. The order shall be 45914
effective until the nonconformities are eliminated, corrected, or 45915
otherwise remedied, or for a period of seventy-two hours from the 45916
time of issuance, whichever occurs first. During the 45917
seventy-two-hour period, the superintendent may request that the 45918
prosecuting attorney or city attorney of Franklin county or of the 45919
county in which the pressure vessel or boiler is located obtain an 45920
injunction restraining the operator or owner of the pressure 45921
vessel or boiler from continuing its operation after the 45922
seventy-two-hour period expires until the nonconformities are 45923
eliminated, corrected, or otherwise remedied. 45924

(E) Each boiler which has been inspected shall be assigned a 45925
number by the superintendent, which number shall be stamped on a 45926
nonferrous metal tag affixed to the boiler or its fittings by seal 45927
or otherwise. No person except an inspector shall deface or remove 45928
any such number or tag. 45929

(F) If the owner or user of any pressure vessel or boiler 45930
disagrees with the inspector as to the necessity for shutting down 45931
a pressure vessel or boiler or for making repairs or alterations 45932
in it, or taking any other measures for safety that are requested 45933
by an inspector, the owner or user may appeal from the decision of 45934
the inspector to the superintendent, who may, after such other 45935
inspection by a general inspector or special inspector as the 45936
superintendent deems necessary, decide the issue. 45937

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, 45938
nor an inspection or report by any inspector, shall relieve the 45939
owner or user of a pressure vessel or boiler of the duty of using 45940

due care in the inspection, operation, and repair of the pressure 45941
vessel or boiler or of any liability for damages for failure to 45942
inspect, repair, or operate the pressure vessel or boiler safely. 45943

Sec. 4104.16. The owner or user of any boiler required by 45944
sections 4104.01 to 4104.20 of the Revised Code, to be inspected, 45945
shall immediately notify the superintendent of ~~labor~~ industrial 45946
compliance in case a defect affecting the safety of the boiler is 45947
discovered. 45948

The owner or user of any stationary boiler required by such 45949
sections to be inspected, who moves the same, shall report to the 45950
superintendent the new location of the boiler. Such boiler shall 45951
be inspected before it is again operated. 45952

Sec. 4104.17. Certificates of operation issued for boilers 45953
subject to inspection under Chapter 4104. of the Revised Code 45954
shall be issued and renewed in accordance with and at dates 45955
prescribed by rules and regulations adopted by the superintendent 45956
of ~~labor~~ industrial compliance. 45957

Sec. 4104.18. (A) The owner or user of a boiler required 45958
under section 4104.12 of the Revised Code to be inspected upon 45959
installation, and the owner or user of a boiler for which a 45960
certificate of inspection has been issued which is replaced with 45961
an appropriate certificate of operation, shall pay to the 45962
superintendent of ~~labor~~ industrial compliance a fee in the amount 45963
of fifty dollars for boilers subject to annual inspections under 45964
section 4104.11 of the Revised Code, one hundred dollars for 45965
boilers subject to biennial inspection under section 4104.13 of 45966
the Revised Code, one hundred fifty dollars for boilers subject to 45967
triennial inspection under section 4104.11 of the Revised Code, or 45968
two hundred fifty dollars for boilers subject to quinquennial 45969
inspection under section 4104.13 of the Revised Code. 45970

(B) The fee for complete inspection during construction by a general inspector on boilers and pressure vessels manufactured within the state shall be thirty-five dollars per hour. Boiler and pressure vessel manufacturers other than those located in the state may secure inspection by a general inspector on work during construction, upon application to the superintendent, and upon payment of a fee of thirty-five dollars per hour, plus the necessary traveling and hotel expenses incurred by the inspector.

(C) The application fee for applicants for steam engineer, high pressure boiler operator, or low pressure boiler operator licenses is seventy-five dollars. The fee for each original or renewal steam engineer, high pressure boiler operator, or low pressure boiler operator license is fifty dollars.

(D) The director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees provided in divisions (A), (B), and (C) of this section. Any moneys collected under this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

(E) Any person who fails to pay an invoiced renewal fee or an invoiced inspection fee required for any inspection conducted by the division of ~~labor~~ industrial compliance pursuant to this chapter within forty-five days of the invoice date shall pay a late payment fee equal to twenty-five per cent of the invoiced fee.

(F) In addition to the fees assessed in divisions (A) and (B) of this section, the board of building standards shall assess the owner or user a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under division (A) of this section and for each inspection conducted under division (B) of this section. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying

the manner by which the superintendent shall collect and remit to 46003
the board the fees assessed under this division and requiring that 46004
remittance of the fees be made at least quarterly. 46005

Sec. 4104.19. (A) Any person seeking a license to operate as 46006
a steam engineer, high pressure boiler operator, or low pressure 46007
boiler operator shall file a written application with the 46008
superintendent of ~~labor~~ industrial compliance on a form prescribed 46009
by the superintendent with the appropriate application fee as set 46010
forth in section 4104.18 of the Revised Code. The application 46011
shall contain information satisfactory to the superintendent to 46012
demonstrate that the applicant meets the requirements of division 46013
(B) of this section. The application shall be filed with the 46014
superintendent not more than sixty days and not less than thirty 46015
days before the license examination is offered. 46016

(B) To qualify to take the examination required to obtain a 46017
steam engineer, high pressure boiler operator, or low pressure 46018
boiler operator license, a person shall meet both of the following 46019
requirements: 46020

(1) Be at least eighteen years of age; 46021

(2) Have one year of experience in the operation of steam 46022
engines, high pressure boilers, or low pressure boilers as 46023
applicable to the type of license being sought, or a combination 46024
of experience and education for the type of license sought as 46025
determined to be acceptable by the superintendent. 46026

(C) No applicant shall qualify to take an examination or to 46027
renew a license if the applicant has violated this chapter or if 46028
the applicant has obtained or renewed a license issued under this 46029
chapter by fraud, misrepresentation, or deception. 46030

(D) The superintendent shall issue a license to each 46031
applicant who receives a passing score on the examination, as 46032

determined by the superintendent, for the license for which the applicant applied. 46033
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(E) The superintendent may select and contract with one or more persons to do all of the following relative to the examinations for a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator: 46035
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(1) Prepare, administer, score, and maintain the confidentiality of the examination; 46039
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(2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section; 46041
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(3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent; 46043
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(4) Design the examination for each type of license to determine an applicant's competence to operate the equipment for which the applicant is seeking licensure. 46045
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(F) Each license issued under this chapter expires one year after the date of issue. Each person holding a valid, unexpired license may renew the license, without reexamination, by applying to the superintendent not more than ninety days before the expiration of the license, and submitting with the application the renewal fee established in section 4104.18 of the Revised Code. Upon receipt of the renewal information and fee, the superintendent shall issue the licensee a certificate of renewal. 46048
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(G) The superintendent, in accordance with Chapter 119. of the Revised Code, may suspend or revoke any license, or may refuse to issue a license under this chapter upon finding that a licensee or an applicant for a license has violated or is violating the requirements of this chapter. 46056
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Sec. 4104.21. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the superintendent of ~~labor~~ 46061
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industrial compliance shall comply with sections 3123.41 to 46063
3123.50 of the Revised Code and any applicable rules adopted under 46064
section 3123.63 of the Revised Code with respect to a certificate 46065
or license issued pursuant to this chapter. 46066

Sec. 4104.33. There is hereby created the historical boilers 46067
licensing board consisting of seven members, three of whom shall 46068
be appointed by the governor with the advice and consent of the 46069
senate. The governor shall make initial appointments to the board 46070
within ninety days after October 24, 2002. Of the initial members 46071
appointed by the governor, one shall be for a term ending three 46072
years after October 24, 2002, one shall be for a term ending four 46073
years after October 24, 2002, and one shall be for a term ending 46074
five years after October 24, 2002. Thereafter, terms of office 46075
shall be for five years, each term ending on the same day of the 46076
same month of the year as did the term that it succeeds. Of the 46077
three members the governor appoints, one member shall be an 46078
employee of the division of boiler inspection in the department of 46079
commerce; one member shall be an independent mechanical engineer 46080
who is not involved in selling or inspecting historical boilers; 46081
and one shall be an active member of an association that 46082
represents managers of fairs or festivals. 46083

Two members of the board shall be appointed by the president 46084
of the senate and two members of the board shall be appointed by 46085
the speaker of the house of representatives. The president and 46086
speaker shall make initial appointments to the board within ninety 46087
days after October 24, 2002. Of the initial members appointed by 46088
the president, one shall be for a term ending four years after 46089
October 24, 2002 and one shall be for a term ending five years 46090
after October 24, 2002. Of the initial members appointed by the 46091
speaker, one shall be for a term ending three years after October 46092
24, 2002 and one shall be for a term ending five years after 46093

October 24, 2002. Thereafter, terms of office shall be for five 46094
years, each term ending on the same day of the same month of the 46095
year as did the term that it succeeds. Of the four members 46096
appointed by the president and speaker, each shall own a 46097
historical boiler and also have at least ten years of experience 46098
in the operation of historical boilers, and each of these four 46099
members shall reside in a different region of the state. 46100

Each member shall hold office from the date of the member's 46101
appointment until the end of the term for which the member was 46102
appointed. Members may be reappointed. Vacancies shall be filled 46103
in the manner provided for initial appointments. Any member 46104
appointed to fill a vacancy occurring prior to the expiration date 46105
of the term for which the member's predecessor was appointed shall 46106
hold office as a member for the remainder of that term. A member 46107
shall continue in office subsequent to the expiration date of the 46108
member's term until the successor takes office or until a period 46109
of sixty days has elapsed, whichever occurs first. 46110

The members of the board, annually, shall elect, by majority 46111
vote, a chairperson from among their members. The board shall meet 46112
at least once annually and at other times at the call of the 46113
chairperson. Board members shall receive their actual and 46114
necessary expenses incurred in the discharge of their duties as 46115
board members. 46116

The superintendent of ~~labor~~ industrial compliance shall 46117
furnish office space, staff, and supplies to the board as the 46118
superintendent determines are necessary for the board to carry out 46119
its official duties under sections 4104.33 to 4104.37 of the 46120
Revised Code. 46121

Sec. 4104.42. (A) The owner of any power piping or process 46122
piping system shall ensure that all of the following are performed 46123
in compliance with applicable sections of the B31 standards 46124

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| contained in the code for pressure piping, published by the | 46125 |
| American society of mechanical engineers: | 46126 |
| (1) The design, fabrication, assembly, installation, testing, | 46127 |
| examination, and inspection of power and process piping systems; | 46128 |
| (2) Qualification of personnel and qualification of welding | 46129 |
| and brazing procedures; | 46130 |
| (3) The implementation of an inspection program. | 46131 |
| (B) The owner of a power piping or process piping system | 46132 |
| shall do both of the following: | 46133 |
| (1) Maintain for five years complete records documenting the | 46134 |
| design, examination, and testing of the piping system that include | 46135 |
| all of the following: | 46136 |
| (a) The specific edition of the code for pressure piping used | 46137 |
| in the design; | 46138 |
| (b) The design assumptions; | 46139 |
| (c) The calculations, piping material specifications, and | 46140 |
| construction documents for the piping; | 46141 |
| (d) The records of piping alterations; | 46142 |
| (e) The piping examination and inspection records. | 46143 |
| (2) Disclose the types and quantities of flammable, | 46144 |
| combustible, or hazardous materials proposed to be used in the | 46145 |
| facility to the building and fire code enforcement authorities who | 46146 |
| have inspection authority to enable those authorities to determine | 46147 |
| compliance with the rules the board of building standards adopts | 46148 |
| pursuant to section 3781.10 of the Revised Code and the rules the | 46149 |
| state fire marshal adopts pursuant to section 3737.82 of the | 46150 |
| Revised Code. | 46151 |
| (C) No person or state agency shall require that the records | 46152 |
| described in division (B)(1) of this section be submitted to the | 46153 |

division of ~~labor~~ industrial compliance in the department of 46154
commerce or to a certified building department for approval. 46155

(D) Nothing in this section limits the application of 46156
Chapters 4703. and 4733. of the Revised Code. 46157

Sec. 4104.43. (A)(1) The board of building standards shall 46158
adopt rules establishing requirements for the design, 46159
installation, inspection of and design review procedure for 46160
building services piping. 46161

(2) The board of building standards shall adopt rules 46162
establishing requirements for the design, installation, inspection 46163
of and design review procedure for nonflammable medical gas, 46164
medical oxygen, and medical vacuum piping systems. 46165

(B) A municipal, township, or county building department 46166
certified under division (E) of section 3781.10 of the Revised 46167
Code shall enforce the rules the board adopts pursuant to division 46168
(A)(2) of this section if that building department requests and 46169
obtains special certification to enforce those rules. 46170

(C) In a health district where no municipal, township, or 46171
county building department is specially certified under division 46172
(B) of this section, an employee of the health district shall 46173
enforce the rules adopted pursuant to division (A)(2) of this 46174
section if both of the following conditions are satisfied: 46175

(1) The health district employee requests and obtains special 46176
certification by the board to enforce those rules. 46177

(2) The health district notifies the superintendent of the 46178
division of ~~labor~~ industrial compliance in the department of 46179
commerce that the health district's specially certified employee 46180
shall enforce those rules. 46181

(D) In a jurisdiction where enforcement authority as 46182
described in divisions (B) and (C) of this section does not exist, 46183

the superintendent of ~~labor~~ industrial compliance shall enforce 46184
the rules the board adopts pursuant to division (A)(2) of this 46185
section. 46186

Sec. 4104.44. All welding and brazing of metallic piping 46187
systems shall be performed in accordance with section IX of the 46188
boiler and pressure vessel code, published by the American society 46189
of mechanical engineers. The owner shall maintain, at the job 46190
site, the certified performance qualification records of all 46191
welders and brazers employed at the facility. The owner shall 46192
submit copies of all certified welding and brazing procedure 46193
specifications, procedure qualification records, and performance 46194
qualification records for building services piping for review to 46195
the superintendent of ~~labor~~ industrial compliance in the 46196
department of commerce in accordance with rules the superintendent 46197
adopts. The submission shall be accompanied by the fee the 46198
superintendent establishes. 46199

Sec. 4104.48. (A) No person shall violate sections 4104.41 to 46200
4104.48 of the Revised Code, fail to perform any duty lawfully 46201
enjoined in connection with those sections, or fail to comply with 46202
any order issued by the superintendent of ~~labor~~ industrial 46203
compliance or any judgment or decree issued by any court in 46204
connection with the enforcement of sections 4104.41 to 4104.48 of 46205
the Revised Code. 46206

(B) Every day during which a person violates sections 4104.41 46207
to 4104.48 of the Revised Code, fails to perform any duty lawfully 46208
enjoined in connection with those sections, or fails to comply 46209
with any order issued by the superintendent or any judgment or 46210
decree issued by any court in connection with the enforcement of 46211
sections 4104.41 to 4104.48 of the Revised Code constitutes a 46212
separate offense. 46213

- Sec. 4105.01.** As used in this chapter: 46214
- (A) "Elevator" means a hoisting and lowering apparatus 46215
equipped with a car, cage, or platform which moves on or between 46216
permanent rails or guides and serves two or more fixed landings in 46217
a building or structure to which section 3781.06 of the Revised 46218
Code applies. "Elevator" includes dumb-waiters other than 46219
hand-powered dumb-waiters, escalators, ~~peoplelifts~~ manlifts, 46220
moving walks, of the endless belt type, other lifting or lowering 46221
apparatus permanently installed on or between rails or guides, and 46222
all equipment, machinery, and construction related to any 46223
elevator; but does not include construction hoists and other 46224
similar temporary lifting or lowering apparatuses, ski lifts, 46225
traveling, portable amusement rides or devices that are not 46226
affixed to a permanent foundation, or nonportable amusement rides 46227
or devices that are affixed to a permanent foundation. 46228
- (B) "Passenger elevator" means an elevator that is designed 46229
to carry persons to its contract capacity. 46230
- (C) "Freight elevator" means an elevator normally used for 46231
carrying freight and on which only the operator and employees in 46232
the pursuit of their duties, by the permission of the employer, 46233
are allowed to ride. 46234
- (D) "Gravity elevator" means an elevator utilizing gravity to 46235
move. 46236
- (E) "General inspector" means a state inspector examined and 46237
hired to inspect elevators and lifting apparatus for that state. 46238
- (F) "Special inspector" means an inspector examined and 46239
commissioned by the superintendent of ~~labor~~ industrial compliance 46240
to inspect elevators and lifting apparatus in the state. 46241
- (G) "Inspector" means either a general or special inspector. 46242

Sec. 4105.02. No person may act, either as a general 46243
inspector or as a special inspector, of elevators, unless the 46244
person holds a certificate of competency from the division of 46245
~~labor~~ industrial compliance. 46246

Application for examination as an inspector of elevators 46247
shall be in writing, accompanied by a fee to be established as 46248
provided in section 4105.17 of the Revised Code, and upon a blank 46249
to be furnished by the division, stating the school education of 46250
the applicant, a list of the applicant's employers, the 46251
applicant's period of employment, and the position held with each. 46252
An applicant shall also submit a letter from one or more of the 46253
applicant's previous employers certifying as to the applicant's 46254
character and experience. 46255

Applications shall be rejected which contain any willful 46256
falsification or untruthful statements. An applicant, if the 46257
division considers the applicant's history and experience 46258
sufficient, shall be examined by the superintendent of ~~labor~~ 46259
industrial compliance by a written examination dealing with the 46260
construction, installation, operation, maintenance, and repair of 46261
elevators and their appurtenances, and the applicant shall be 46262
accepted or rejected on the merits of the applicant's application 46263
and examination. 46264

The superintendent shall issue a certificate of competency in 46265
the inspection of elevators to any applicant found competent upon 46266
examination. A rejected applicant shall be entitled, after the 46267
expiration of ninety days and upon payment of an examination fee 46268
to be established as provided in section 4105.17 of the Revised 46269
Code, to another examination. Should an applicant fail to pass the 46270
prescribed examination on second trial, the applicant will not be 46271
permitted to be an applicant for another examination for a period 46272
of one year after the second examination. 46273

Sec. 4105.03. The superintendent of ~~labor~~ industrial 46274
compliance, with the consent of the director of commerce, shall 46275
hire an assistant who has at least ten years of experience in the 46276
construction, installation, maintenance, and repair of elevators 46277
and their appurtenances. 46278

The superintendent, with the consent of the director, and in 46279
compliance with Chapter 124. of the Revised Code, may appoint and 46280
hire general inspectors of elevators from the holders of 46281
certificates of competency. 46282

Sec. 4105.04. From the holders of certificates of competency 46283
in the inspection of elevators, any company that is authorized to 46284
insure elevators in the state, may designate persons to inspect 46285
elevators covered by such company's policies, and the department 46286
of public safety of any city and the clerk of any village may 46287
designate persons to inspect elevators in such city or village. 46288
Such persons shall, upon the payment of a fee to be established as 46289
provided in section 4105.17 of the Revised Code, have issued to 46290
them annually by the division of ~~labor~~ industrial compliance, 46291
commissions to serve as special inspectors of elevators in the 46292
state. 46293

Sec. 4105.05. A commission to serve as a special inspector 46294
may be suspended or revoked by the superintendent of ~~labor~~ 46295
industrial compliance, for the incompetence or untrustworthiness 46296
of the holder thereof, or for the falsification of any matter or 46297
statement contained in the holder's application or in a report of 46298
any inspection. 46299

Sec. 4105.06. If a certificate or commission issued under 46300
sections 4105.02 and 4105.04 of the Revised Code is lost or 46301
destroyed a new one shall be issued in its place by the division 46302

of ~~labor~~ industrial compliance without another examination, upon 46303
the payment of a fee to be established as provided in section 46304
4105.07 of the Revised Code. 46305

Sec. 4105.09. The owner or user of any elevator shall 46306
register, with the division of ~~labor~~ industrial compliance, every 46307
elevator operated by the owner or user, giving the type, capacity, 46308
and description, name of manufacturer, and purpose for which each 46309
is used. Such registration shall be made on a form to be furnished 46310
by the division. 46311

Sec. 4105.11. The inspection of elevators shall be made by 46312
the inspectors authorized in sections 4105.03 and 4105.04 of the 46313
Revised Code, under the supervision of the superintendent of ~~labor~~ 46314
industrial compliance, and the superintendent shall enforce this 46315
chapter and any rules adopted pursuant thereto. 46316

Every inspector shall forward to the superintendent a full 46317
and complete report of each inspection made of any elevator and 46318
shall, on the day the inspection is completed, leave a copy of 46319
such report with the owner or operator of the elevator, or the 46320
owner's or operator's agent or representative. Such report shall 46321
indicate the exact condition of the elevator and shall list any 46322
and all of the provisions of this chapter and any rules adopted 46323
pursuant thereto, with which the elevator does not comply. Before 46324
attempting to enforce, by any remedy, civil or criminal, the 46325
provisions with which the inspected elevator does not comply, the 46326
chief shall issue an adjudication order within the meaning of 46327
Chapter 119. of the Revised Code. 46328

The approval of construction plans, or an application of 46329
specifications under section 4105.16 of the Revised Code is a 46330
license, and the failure to approve such plans or specifications 46331
by the chief within sixty days after they are filed is an 46332

adjudication order denying the issuance of a license. 46333

Every adjudication order shall specify what appliances, site 46334
preparations, additions, repairs, or alterations to any elevators, 46335
plans, materials, assemblages, or procedures are necessary for the 46336
same to comply with this chapter, or any rules adopted pursuant 46337
thereto. Such adjudication order shall be issued pursuant to 46338
Chapter 119. of the Revised Code and shall be effective without 46339
prior hearing, within thirty days after the receipt of such order, 46340
the owner of the elevator specified therein may appeal to the 46341
board of building appeals under section 3781.19 of the Revised 46342
Code. 46343

Notwithstanding the provisions of Chapter 119. of the Revised 46344
Code relating to adjudication hearings, a stenographic or 46345
mechanical record of the testimony and other evidence submitted 46346
before the board of building appeals shall be taken at the expense 46347
of the agency. A party adversely affected by an order issued 46348
following such adjudication hearing may appeal to the court of 46349
common pleas of the county in which the party is a resident or in 46350
which the elevator affected by such order is located. The court in 46351
such case shall not be confined to the record as certified to it 46352
by the agency, but any party may produce additional evidence and 46353
the court shall hear the matter upon such record and such 46354
additional evidence as is introduced by any party. The court shall 46355
not affirm the order of the agency unless the preponderance of the 46356
evidence before it supports the reasonableness and lawfulness of 46357
such order, and of any rules upon which the order of the agency is 46358
based in its application to the facts involved in the appeal. 46359

Failure to comply with the requirements of any order issued 46360
pursuant to this section or the continued operation of any 46361
elevator after it has been sealed pursuant to section 4105.21 of 46362
the Revised Code is hereby declared a public nuisance. 46363

Sec. 4105.12. (A) The superintendent of ~~labor~~ industrial compliance shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for the conduct of hearings related to these actions, and for the inspection of elevators.

(B) Notwithstanding division (A) of this section, the superintendent shall not adopt rules relating to construction, maintenance, and repair of elevators.

Sec. 4105.13. Every elevator shall be constructed, equipped, maintained, and operated, with respect to the supporting members, elevator car, shaftways, guides, cables, doors, and gates, safety stops and mechanism, electrical apparatus and wiring, mechanical apparatus, counterweights, and all other appurtenances, in accordance with state laws and rules as are authorized in respect thereto. Where reasonable safety is obtained without complying to the literal requirements of such rules as in cases of practical difficulty or unnecessary hardship, the literal requirements of such rules shall not be required. The superintendent of ~~labor~~ industrial compliance may permit the installation of vertical wheelchair lifts in public buildings to provide for handicapped accessibility where such lifts do not meet the literal requirements of the rules adopted by the board of building standards pursuant to section 4105.011 of the Revised Code, provided that reasonable safety may be obtained.

Sec. 4105.15. No certificate of operation for any elevator shall be issued by the director of commerce until such elevator has been inspected as required by this chapter. Certificates of operation shall be renewed by the owner or user of the elevator in accordance with rules adopted by the superintendent of ~~labor~~

industrial compliance pursuant to section 4105.12 of the Revised Code. 46394
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Sec. 4105.16. Before any new installation of an elevator of permanent nature is erected or before any existing elevator is removed to and installed in a different location, an application of specifications in duplicate shall be submitted to the division of ~~labor~~ industrial compliance giving such information concerning the construction, installation, and operation of said elevator as the division may require on forms to be furnished by the division, together with complete construction plans in duplicate. In all cases where any changes or repairs are made which alter its construction of classification, grade or rated lifting capacity, except when made pursuant to a report of an inspector, an application of specifications in duplicate shall be submitted to the division, containing such information, or approval, except in those municipal corporations which maintain their own elevator inspection departments, in which event such specifications shall be submitted to the elevator department of the municipal corporation for its approval, and if approved, a permit for the erection or repair of such elevator shall be issued by the municipal corporation. Upon approval of such application and construction plans, the superintendent of ~~labor~~ industrial compliance shall issue a permit for the erection or repair of such elevator. No new elevator shall be operated until completion in accordance with the approved plans and specifications, unless a temporary permit is granted by the division. 46396
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The final inspection, before operation, of a permanent, new or repaired elevator shall be made by a general inspector or a special inspector designated by the superintendent. 46420
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Sec. 4105.17. (A) The fee for each inspection, or attempted inspection that, due to no fault of a general inspector or the 46423
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division of ~~labor~~ industrial compliance, is not successfully 46425
completed, by a general inspector before the operation of a 46426
permanent new elevator prior to the issuance of a certificate of 46427
operation, before operation of an elevator being put back into 46428
service after a repair or after an adjudication under section 46429
4105.11 of the Revised Code, or as a result of the operation of 46430
section 4105.08 of the Revised Code and is an elevator required to 46431
be inspected under this chapter is one hundred twenty dollars plus 46432
ten dollars for each floor where the elevator stops. The 46433
superintendent of ~~labor~~ industrial compliance may assess an 46434
additional fee of one hundred twenty dollars plus ten dollars for 46435
each floor where an elevator stops for the reinspection of an 46436
elevator when a previous attempt to inspect that elevator has been 46437
unsuccessful through no fault of a general inspector or the 46438
division of ~~labor~~ industrial compliance. 46439

(B) The fee for each inspection, or attempted inspection, 46440
that due to no fault of the general inspector or the division, is 46441
not successfully completed by a general inspector before operation 46442
of a permanent new escalator or moving walk prior to the issuance 46443
of a certificate of operation, before operation of an escalator or 46444
moving walk being put back in service after a repair, or as a 46445
result of the operation of section 4105.08 of the Revised Code is 46446
three hundred dollars. The superintendent may assess an additional 46447
fee of one hundred fifty dollars for the reinspection of an 46448
escalator or moving walk when a previous attempt to inspect that 46449
escalator or moving walk has been unsuccessful through no fault of 46450
the general inspector or the division. 46451

(C) The fee for issuing or renewing a certificate of 46452
operation under section 4105.15 of the Revised Code for an 46453
elevator that is inspected every six months in accordance with 46454
division (A) of section 4105.10 of the Revised Code is two hundred 46455
twenty dollars plus twelve dollars for each floor where the 46456

elevator stops, except where the elevator has been inspected by a 46457
special inspector in accordance with section 4105.07 of the 46458
Revised Code. 46459

(D) The fee for issuing or renewing a certificate of 46460
operation under section 4105.05 of the Revised Code for an 46461
elevator that is inspected every twelve months in accordance with 46462
division (A) of section 4105.10 of the Revised Code is fifty-five 46463
dollars plus ten dollars for each floor where the elevator stops, 46464
except where the elevator has been inspected by a special 46465
inspector in accordance with section 4105.07 of the Revised Code. 46466

(E) The fee for issuing or renewing a certificate of 46467
operation under section 4105.15 of the Revised Code for an 46468
escalator or moving walk is three hundred dollars, except where 46469
the escalator or moving walk has been inspected by a special 46470
inspector in accordance section 4105.07 of the Revised Code. 46471

(F) All other fees to be charged for any examination given or 46472
other service performed by the division pursuant to this chapter 46473
shall be prescribed by the director of commerce. The fees shall be 46474
reasonably related to the costs of such examination or other 46475
service. 46476

(G) The director of commerce, subject to the approval of the 46477
controlling board, may establish fees in excess of the fees 46478
provided in divisions (A), (B), (C), (D), and (E) of this section. 46479
Any moneys collected under this section shall be paid into the 46480
state treasury to the credit of the ~~labor~~ industrial compliance 46481
operating fund created in section 121.084 of the Revised Code. 46482

(H) Any person who fails to pay an inspection fee required 46483
for any inspection conducted by the division pursuant to this 46484
chapter within forty-five days after the inspection is conducted 46485
shall pay a late payment fee equal to twenty-five per cent of the 46486
inspection fee. 46487

(I) In addition to the fees assessed in divisions (A), (B), 46488
(C), (D), and (E) of this section, the board of building standards 46489
shall assess a fee of three dollars and twenty-five cents for each 46490
certificate of operation or renewal thereof issued under divisions 46491
(A), (B), (C), (D), or (E) of this section and for each permit 46492
issued under section 4105.16 of the Revised Code. The board shall 46493
adopt rules, in accordance with Chapter 119. of the Revised Code, 46494
specifying the manner by which the superintendent shall collect 46495
and remit to the board the fees assessed under this division and 46496
requiring that remittance of the fees be made at least quarterly. 46497

(J) For purposes of this section: 46498

(1) "Escalator" means a power driven, inclined, continuous 46499
stairway used for raising or lowering passengers. 46500

(2) "Moving walk" means a passenger carrying device on which 46501
passengers stand or walk, with a passenger carrying surface that 46502
is uninterrupted and remains parallel to its direction of motion. 46503

Sec. 4105.191. Any person owning or operating any elevator 46504
subject to this chapter shall file a written report with the 46505
superintendent of ~~labor~~ industrial compliance within seventy-two 46506
hours after the occurrence of any accident involving such elevator 46507
which results in death or bodily injury to any person. 46508

Sec. 4105.20. No person shall violate any law relative to the 46509
operation, construction, maintenance, and repair of elevators. All 46510
fines collected for violation of this section shall be forwarded 46511
to the superintendent of ~~labor~~ industrial compliance, who shall 46512
pay them into the state treasury to the credit of the ~~labor~~ 46513
industrial compliance operating fund created in section 121.084 of 46514
the Revised Code. 46515

Sec. 4105.21. The superintendent of ~~labor~~ industrial 46516

compliance shall enforce this chapter. If the superintendent or a 46517
general inspector of elevators finds that an elevator or a part 46518
thereof does not afford reasonable safety as required by section 46519
4105.13 of the Revised Code, the superintendent or the general 46520
inspector may seal such elevator and post a notice thereon 46521
prohibiting further use of the elevator until the changes or 46522
alterations set forth in the notice have been made to the 46523
satisfaction of the superintendent or the inspector. The notice 46524
shall contain a statement that operators or passengers are subject 46525
to injury by its continued use, a description of the alteration or 46526
other change necessary to be made in order to secure safety of 46527
operation, date of such notice, name and signature of the 46528
superintendent or inspector issuing the notice. 46529

Sec. 4115.10. (A) No person, firm, corporation, or public 46530
authority that constructs a public improvement with its own 46531
forces, the total overall project cost of which is fairly 46532
estimated to be more than the amounts set forth in division (B) of 46533
section 4115.03 of the Revised Code, adjusted biennially by the 46534
director of commerce pursuant to section 4115.034 of the Revised 46535
Code, as appropriate, shall violate the wage provisions of 46536
sections 4115.03 to 4115.16 of the Revised Code, or suffer, 46537
permit, or require any employee to work for less than the rate of 46538
wages so fixed, or violate the provisions of section 4115.07 of 46539
the Revised Code. Any employee upon any public improvement, except 46540
an employee to whom or on behalf of whom restitution is made 46541
pursuant to division (C) of section 4115.13 of the Revised Code, 46542
who is paid less than the fixed rate of wages applicable thereto 46543
may recover from such person, firm, corporation, or public 46544
authority that constructs a public improvement with its own forces 46545
the difference between the fixed rate of wages and the amount paid 46546
to the employee and in addition thereto a sum equal to twenty-five 46547
per cent of that difference. The person, firm, corporation, or 46548

public authority who fails to pay the rate of wages so fixed also 46549
shall pay a penalty to the director of seventy-five per cent of 46550
the difference between the fixed rate of wages and the amount paid 46551
to the employees on the public improvement. The director shall 46552
deposit all moneys received from penalties paid to the director 46553
pursuant to this section into the ~~labor~~ industrial compliance 46554
operating fund. The director shall use the fund for the 46555
enforcement of sections 4115.03 to 4115.16 of the Revised Code. 46556
The employee may file suit for recovery within ninety days of the 46557
director's determination of a violation of sections 4115.03 to 46558
4115.16 of the Revised Code or is barred from further action under 46559
this division. Where the employee prevails in a suit, the employer 46560
shall pay the costs and reasonable attorney's fees allowed by the 46561
court. 46562

(B) Any employee upon any public improvement who is paid less 46563
than the prevailing rate of wages applicable thereto may file a 46564
complaint in writing with the director upon a form furnished by 46565
the director. The complaint shall include documented evidence to 46566
demonstrate that the employee was paid less than the prevailing 46567
wage in violation of this chapter. Upon receipt of a properly 46568
completed written complaint of any employee paid less than the 46569
prevailing rate of wages applicable, the director shall take an 46570
assignment of a claim in trust for the assigning employee and 46571
bring any legal action necessary to collect the claim. The 46572
employer shall pay the costs and reasonable attorney's fees 46573
allowed by the court if the employer is found in violation of 46574
sections 4115.03 to 4115.16 of the Revised Code. 46575

(C) If after investigation pursuant to section 4115.13 of the 46576
Revised Code, the director determines there is a violation of 46577
sections 4115.03 to 4115.16 of the Revised Code and a period of 46578
sixty days has elapsed from the date of the determination, and if: 46579

(1) No employee has brought suit pursuant to division (A) of 46580

this section; 46581

(2) No employee has requested that the director take an 46582
assignment of a wage claim pursuant to division (B) of this 46583
section. 46584

The director shall bring any legal action necessary to 46585
collect any amounts owed to employees and the director. The 46586
director shall pay over to the affected employees the amounts 46587
collected to which the affected employees are entitled under 46588
division (A) of this section. In any action in which the director 46589
prevails, the employer shall pay the costs and reasonable 46590
attorney's fees allowed by the court. 46591

(D) Where persons are employed and their rate of wages has 46592
been determined as provided in section 4115.04 of the Revised 46593
Code, no person, either for self or any other person, shall 46594
request, demand, or receive, either before or after the person is 46595
engaged, that the person so engaged pay back, return, donate, 46596
contribute, or give any part or all of the person's wages, salary, 46597
or thing of value, to any person, upon the statement, 46598
representation, or understanding that failure to comply with such 46599
request or demand will prevent the procuring or retaining of 46600
employment, and no person shall, directly or indirectly, aid, 46601
request, or authorize any other person to violate this section. 46602
This division does not apply to any agent or representative of a 46603
duly constituted labor organization acting in the collection of 46604
dues or assessments of such organization. 46605

(E) The director shall enforce sections 4115.03 to 4115.16 of 46606
the Revised Code. 46607

(F) For the purpose of supplementing existing resources and 46608
to assist in enforcing division (E) of this section, the director 46609
may contract with a person registered as a public accountant under 46610
Chapter 4701. of the Revised Code to conduct an audit of a person, 46611

firm, corporation, or public authority. 46612

(G) No contractor or subcontractor shall be responsible for 46613
the payment of the penalties provided in division (A) of this 46614
section resulting from a violation of sections 4115.03 to 4115.16 46615
of the Revised Code by its subcontractor, provided that the 46616
contractor or subcontractor has made a good faith effort to ensure 46617
that its subcontractor complied with the requirements of sections 46618
4115.03 to 4115.16 of the Revised Code. 46619

Sec. 4115.101. There is hereby created the prevailing wage 46620
custodial fund, which shall be in the custody of the treasurer of 46621
state but shall not be part of the state treasury. The director of 46622
commerce shall deposit to the fund all money paid by employers to 46623
the director that are held in trust for employees to whom 46624
prevailing wages are due and owing. The director shall make 46625
disbursements from the fund in accordance with this chapter to 46626
employees affected by violations of this chapter. If the director 46627
determines that any funds in the prevailing wage custodial fund 46628
are not returnable to employees as required under this section, 46629
then the director shall certify to the treasurer of state the 46630
amount of the funds that are not returnable. Upon the receipt of a 46631
certification from the director in accordance with this section, 46632
the treasurer of state shall transfer the certified amount of the 46633
funds from the prevailing wage custodial fund to the ~~labor~~ 46634
industrial compliance operating fund. 46635

Sec. 4121.123. (A) There is hereby created the workers' 46636
compensation board of directors nominating committee consisting of 46637
the following: 46638

(1) Three individuals who are members of affiliated employee 46639
organizations of the Ohio chapter of the American federation of 46640
labor-congress of industrial organizations, who are selected by 46641

the Ohio chapter of the American federation of labor-congress of 46642
industrial organizations and who, on account of their previous 46643
vocation, employment, or affiliations, can be classed as 46644
representative of employees who are members of an employee 46645
organization. Terms of office shall be for one year, with each 46646
term ending on the same day of the same month as did the term that 46647
it succeeds. 46648

(2) Two individuals who, on account of their previous 46649
vocation, employment, or affiliations, can be classed as 46650
representative of employees, one of whom shall be an injured 46651
worker with a valid, open, and active workers' compensation claim 46652
and at least one of these two representatives also shall represent 46653
employees who are not members of an employee organization. The 46654
president of the senate and the speaker of the house of 46655
representatives each shall appoint annually one of these members. 46656
The member who is an injured worker shall serve for a full term 46657
even if the member's workers' compensation claim is invalidated, 46658
closed, or inactivated during the member's term. 46659

(3) The chief executive officer, or the equivalent of the 46660
chief executive officer, of the Ohio chamber of commerce, the Ohio 46661
manufacturers' association, the Ohio self-insurers' association, 46662
the Ohio council of retail merchants, the national federation of 46663
independent business, and the Ohio farm bureau; 46664

(4) The director of development; 46665

(5) The president of the Ohio township association and the 46666
president of the Ohio county commissioners association, or, ~~in~~ if 46667
any of the following circumstances apply: 46668

(a) In the event of a vacancy in ~~the~~ either presidency, a 46669
designee appointed by the governing body authorized to appoint the 46670
president. A designee so appointed shall serve on the nominating 46671
committee only until the vacancy in the presidency is filled. 46672

(b) In the event that the president of the Ohio township association is unavailable, a designee selected by the president; 46673
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(c) In the event that the president of the Ohio county commissioners association is unavailable, a designee selected by the president. 46675
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(B) Each member appointed under divisions (A)(1) and (2) of 46678
this section shall hold office from the date of the member's 46679
appointment until the end of the term for which the member was 46680
appointed. Such members may be reappointed. Vacancies shall be 46681
filled in the manner provided for original appointments. Any such 46682
member appointed to fill a vacancy occurring prior to the 46683
expiration date of the term for which the member's predecessor was 46684
appointed shall hold office as a member for the remainder of that 46685
term. Such a member shall continue in office subsequent to the 46686
expiration date of the member's term until the member's successor 46687
takes office or until a period of sixty days has elapsed, 46688
whichever occurs first. 46689

(C) The nominating committee shall meet at the request of the 46690
governor or as the nominating committee determines appropriate in 46691
order to make recommendations to the governor for the appointment 46692
of members of the bureau of workers' compensation board of 46693
directors under section 4121.12 of the Revised Code. 46694

(D) The director of development shall serve as chairperson of 46695
the nominating committee and have no voting rights on matters 46696
coming before the nominating committee, except that the director 46697
may vote in the event of a tie vote of the nominating committee. 46698
Annually, the nominating committee shall select a secretary from 46699
among its members. The nominating committee may adopt by-laws 46700
governing its proceedings. 46701

(E) Members of the nominating committee shall be paid their 46702
reasonable and necessary expenses pursuant to section 126.31 of 46703

the Revised Code while engaged in the performance of their duties 46704
as members of the nominating committee. 46705

(F) The nominating committee shall: 46706

(1) Review and evaluate possible appointees for the board. In 46707
reviewing and evaluating possible appointees for the board, the 46708
nominating committee may accept comments from, cooperate with, and 46709
request information from any person. 46710

(2) Make recommendations to the governor for the appointment 46711
of members to the board as provided in division (C) of section 46712
4121.12 of the Revised Code. 46713

(G) The nominating committee may make recommendations to the 46714
general assembly concerning changes in legislation that will 46715
assist the nominating committee in the performance of its duties. 46716

Sec. 4121.30. (A) All rules governing the operating procedure 46717
of the bureau of workers' compensation and the industrial 46718
commission shall be adopted in accordance with Chapter 119. of the 46719
Revised Code, except that determinations of the bureau, district 46720
hearing officers, staff hearing officers, and the commission, with 46721
respect to an individual employee's claim to participate in the 46722
state insurance fund are governed only by Chapter 4123. of the 46723
Revised Code. 46724

The administrator of workers' compensation and commission 46725
shall proceed jointly, in accordance with Chapter 119. of the 46726
Revised Code, including a joint hearing, to adopt joint rules 46727
governing the operating procedures of the bureau and commission. 46728
~~The bureau shall publish the joint rules in a single publication.~~ 46729

(B) Upon submission to the bureau or the commission of a 46730
petition containing not less than fifteen hundred signatures of 46731
adult residents of the state, any individual may propose a rule 46732
for adoption, amendment, or rescission by the bureau or the 46733

commission. If, upon investigation, the bureau or commission is 46734
satisfied that the signatures upon the petition are valid, it 46735
shall proceed, in accordance with Chapter 119. of the Revised 46736
Code, to consider adoption, amendment, or rescission of the rule. 46737

(C) The administrator shall ~~publish~~ make available 46738
electronically all rules adopted by the bureau and the commission 46739
~~in a single publication~~ and shall make available in a timely 46740
manner ~~and at cost copies of~~ all rules adopted by the bureau and 46741
the commission that are currently in force. ~~For that purpose, the~~ 46742
~~administrator shall maintain a mailing list of all persons~~ 46743
~~requesting copies of the rules.~~ 46744

(D) The rule-making authority granted to the administrator 46745
under this section does not limit the commission's rule-making 46746
authority relative to its overall adjudicatory policy-making and 46747
management duties under this chapter and Chapters 4123., 4127., 46748
and 4131. of the Revised Code. The administrator shall not 46749
disregard any rule adopted by the commission, provided that the 46750
rule is within the commission's rule-making authority. 46751

Sec. 4123.20. The administrator of workers' compensation 46752
shall ~~cause to be printed, in proper form for distribution~~ make 46753
available electronically to the public, its classifications, 46754
rates, rules, and rules of procedure, and shall furnish the same 46755
to any person upon ~~application therefor, and the fact that the~~ 46756
~~classifications, rates, rules, and rules of procedure are printed~~ 46757
~~ready for distribution to all who apply for the same is a~~ 46758
~~sufficient publication of the same as required by this chapter~~ 46759
request. 46760

Sec. 4163.07. (A)(1) Prior to transporting any high-level 46761
radioactive waste, spent nuclear fuel, transuranic waste, or any 46762
quantity of special nuclear material or by-product material that 46763

meets or exceeds the highway route controlled quantity, within, 46764
into, or through the state, the shipper of the material shall 46765
notify the executive director of the emergency management agency 46766
established under section 5502.22 of the Revised Code of the 46767
shipment. The notice shall be in writing and be sent by certified 46768
mail and shall include the name of the shipper; the name of the 46769
carrier; the type and quantity of the material; the transportation 46770
mode of the shipment; the proposed date and time of shipment of 46771
the material within, into, or through the state; and the starting 46772
point, termination or exit point, scheduled route, and each 46773
alternate route, if any, of the shipment. In order to constitute 46774
effective notification under division (A)(1) of this section, 46775
notification shall be received by the executive director at least 46776
four days prior to shipment within, into, or through the state. 46777

(2) The carrier or shipper of any shipment subject to 46778
division (A)(1) of this section shall immediately notify the 46779
executive director of any change in the date and time of the 46780
shipment or in the route of the shipment within, into, or through 46781
the state. 46782

(B) Upon receipt of a notice of any shipment of material that 46783
is subject to division (A)(1) of this section within, into, or 46784
through the state, the executive director of the emergency 46785
management agency shall immediately notify the director of public 46786
safety, the director of environmental protection, the director of 46787
health, the chairperson of the public utilities commission, and 46788
the county emergency management agency and sheriff of each county 46789
along the proposed route, or any alternate route, of the shipment. 46790

(C) The executive director of the emergency management agency 46791
shall not disclose to any person other than those persons 46792
enumerated in division (B) of this section any information 46793
pertaining to any shipment of special nuclear material or 46794
by-product material prior to the time that the shipment is 46795

completed. 46796

(D) This section does not apply to radioactive materials, 46797
other than by-products, shipped by or for the United States 46798
department of defense and United States department of energy for 46799
military or national defense purposes. Nothing in this section 46800
requires the disclosure of any defense information or restricted 46801
data as defined in the "Atomic Energy Act of 1954," 68 Stat. 919, 46802
42 U.S.C. 2011, as amended. 46803

(E) No person shall transport or cause to be transported 46804
within, into, or through the state any material that is subject to 46805
division (A)(1) of this section without first providing the notice 46806
required in that division. 46807

(F) Whoever violates division (E) of this section, in 46808
addition to any penalty imposed under section 4163.99 of the 46809
Revised Code, is liable for a civil penalty in an amount not to 46810
exceed the following, as applicable: 46811

(1) Twenty-five thousand dollars for a motor carrier, as 46812
defined in section 4923.01 of the Revised Code; 46813

(2) Forty-five thousand dollars for the first cask designated 46814
for transport by rail and thirty thousand dollars for each 46815
additional cask designated for transport by rail that is shipped 46816
by the same person or entity in the same shipment. 46817

The attorney general, upon the request of the executive 46818
director of the emergency management agency, shall bring a civil 46819
action to collect the penalty. Fines collected pursuant to this 46820
section shall be deposited into the state treasury to the credit 46821
of the ~~radioactive waste~~ public utilities transportation safety 46822
fund created in section ~~4905.801~~ 4921.21 of the Revised Code. 46823

Sec. 4169.02. (A) For the purposes of regulating the 46824
construction, maintenance, mechanical operation, and inspection of 46825

passenger tramways that are associated with ski areas and of 46826
registering operators of passenger tramways in this state, there 46827
is hereby established in the division of ~~labor~~ industrial 46828
compliance in the department of commerce a ski tramway board to be 46829
appointed by the governor, with the advice and consent of the 46830
senate. The board shall consist of three members, one of whom 46831
shall be a public member who is an experienced skier and familiar 46832
with ski areas in this state, one of whom shall be a ski area 46833
operator actively engaged in the business of recreational skiing 46834
in this state, and one of whom shall be a professional engineer 46835
who is knowledgeable in the design or operation of passenger 46836
tramways. 46837

Of the initial appointments, one member shall be appointed 46838
for a term of one year, one for a term of two years, and one for a 46839
term of three years. The member appointed to the term beginning on 46840
July 1, 1996, shall be appointed to a term ending on June 30, 46841
1997; the member appointed to a term beginning on July 1, 1997, 46842
shall be appointed to a term ending on June 30, 1999; and the 46843
member appointed to a term beginning on July 1, 1998, shall be 46844
appointed to a term ending on June 30, 2001. Thereafter, each of 46845
the members shall be appointed for a term of six years. Each 46846
member shall hold office from the date of appointment until the 46847
end of the term for which the member was appointed. In the event 46848
of a vacancy, the governor, with the advice and consent of the 46849
senate, shall appoint a successor who shall hold office for the 46850
remainder of the term for which the successor's predecessor was 46851
appointed. A member shall continue in office subsequent to the 46852
expiration date of the member's term until the member's successor 46853
takes office or until a period of sixty days has elapsed, 46854
whichever occurs first. The board shall elect a chairperson from 46855
its members. 46856

The governor may remove any member of the board at any time 46857

for misfeasance, nonfeasance, or malfeasance in office after 46858
giving the member a copy of the charges against the member and an 46859
opportunity to be heard publicly in person or by counsel in the 46860
member's defense. Any such act of removal by the governor is 46861
final. A statement of the findings of the governor, the reason for 46862
the governor's action, and the answer, if any, of the member shall 46863
be filed by the governor with the secretary of state and shall be 46864
open to public inspection. 46865

Members of the board shall be paid two hundred fifty dollars 46866
for each meeting that the member attends, except that no member 46867
shall be paid or receive more than seven hundred fifty dollars for 46868
attending meetings during any calendar year. Each member shall be 46869
reimbursed for the member's actual and necessary expenses incurred 46870
in the performance of official board duties. The chairperson shall 46871
be paid two hundred fifty dollars annually in addition to any 46872
compensation the chairperson receives under this division for 46873
attending meetings and any other compensation the chairperson 46874
receives for serving on the board. 46875

The division shall provide the board with such offices and 46876
such clerical, professional, and other assistance as may be 46877
reasonably necessary for the board to carry on its work. The 46878
division shall maintain accurate copies of the board's rules as 46879
promulgated in accordance with division (B) of this section and 46880
shall keep all of the board's records, including business records, 46881
and inspection reports as well as its own records and reports. The 46882
cost of administering the board and conducting inspections shall 46883
be included in the budget of the division based on revenues 46884
generated by the registration fees established under section 46885
4169.03 of the Revised Code. 46886

(B) In accordance with Chapter 119. of the Revised Code, the 46887
board shall adopt and may amend or rescind rules relating to 46888
public safety in the construction, maintenance, mechanical 46889

operation, and inspection of passenger tramways. The rules shall 46890
be in accordance with established standards in the business of ski 46891
area operation, if any, and shall not discriminate in their 46892
application to ski area operators. 46893

No person shall violate the rules of the board. 46894

(C) The authority of the board shall not extend to any matter 46895
relative to the operation of a ski area other than the 46896
construction, maintenance, mechanical operation, and inspection of 46897
passenger tramways. 46898

(D) A majority of the board constitutes a quorum and may 46899
perform and exercise all the duties and powers devolving upon the 46900
board. 46901

Sec. 4169.03. (A) Before a passenger tramway operator may 46902
operate any passenger tramway in the state, the operator shall 46903
apply to the ski tramway board, on forms prepared by it, for 46904
registration by the board. The application shall contain an 46905
inventory of the passenger tramways that the applicant intends to 46906
operate and other information as the board may reasonably require 46907
and shall be accompanied by the following annual fees: 46908

(1) Each aerial passenger tramway, five hundred dollars; 46909

(2) Each skimobile, two hundred dollars; 46910

(3) Each chair lift, two hundred dollars; 46911

(4) Each J bar, T bar, or platter pull, one hundred dollars; 46912

(5) Each rope tow, fifty dollars; 46913

(6) Each wire rope tow, seventy-five dollars; 46914

(7) Each conveyor, one hundred dollars. 46915

When an operator operates an aerial passenger tramway, a 46916
skimobile, or a chair lift during both a winter and summer season, 46917
the annual fee shall be one and one-half the above amount for the 46918

respective passenger tramway. 46919

(B) Upon payment of the appropriate annual fees in accordance 46920
with division (A) of this section, the board shall issue a 46921
registration certificate to the operator. Each certificate shall 46922
remain in force until the thirtieth day of September next ensuing. 46923
The board shall renew an operator's certificate in accordance with 46924
the standard renewal procedure in Chapter 4745. of the Revised 46925
Code upon payment of the appropriate annual fees. 46926

(C) Money received from the registration fees and from the 46927
fines collected pursuant to section 4169.99 of the Revised Code 46928
shall be paid into the state treasury to the credit of the ~~labor~~ 46929
industrial compliance operating fund created in section 121.084 of 46930
the Revised Code. 46931

(D) No person shall operate a passenger tramway in this state 46932
unless the person has been registered by the board. 46933

Sec. 4169.04. (A) The division of ~~labor~~ industrial compliance 46934
in the department of commerce shall make such inspection of the 46935
construction, maintenance, and mechanical operation of passenger 46936
tramways as the ski tramway board may reasonably require. The 46937
division may contract with other qualified engineers to make such 46938
inspection or may accept the inspection report by any qualified 46939
inspector of an insurance company authorized to insure passenger 46940
tramways in this state. 46941

(B) If, as the result of an inspection, an employee of the 46942
division or other agent with whom the division has contracted 46943
finds that a violation of the board's rules exists or a condition 46944
in passenger tramway construction, maintenance, or mechanical 46945
operation exists that endangers public safety, the employee or 46946
agent shall make an immediate report to the board for appropriate 46947
investigation and order. 46948

Sec. 4171.04. (A) Before a person may operate any roller skating rink in the state, the person shall:

(1) Apply to the superintendent of ~~labor~~ industrial compliance in the department of commerce on forms designated by the superintendent for a certificate of registration;

(2) Provide an inventory of all the roller skating rinks that the applicant intends to operate, and any other information the superintendent may reasonably require on the application;

(3) Include with the application a registration fee of twenty-five dollars for each roller skating rink to be operated by the applicant.

(B) Upon compliance with division (A) of this section, the superintendent shall issue a certificate of registration to the operator for each roller skating rink to be operated by the applicant. Each certificate shall remain in force as follows:

(1) Until the thirty-first day of December next ensuing; or

(2) For sixty days after the dissolution of a partnership.

(C) In case of the dissolution of a partnership by death, the surviving partner or partners may operate a roller skating rink pursuant to the certificate of registration obtained by the partnership in accordance with this chapter for a period of sixty days following dissolution. The heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the certificate of registration of the person succeeded in possession.

(D) The superintendent shall renew an operator's certificate of registration in accordance with the standard license renewal procedure set forth in Chapter 4745. of the Revised Code upon payment of a renewal fee of twenty-five dollars for each roller skating rink to be operated by the applicant.

(E) Money received from the registration and renewal fees 46979
collected pursuant to this chapter shall be paid into the state 46980
treasury to the credit of the ~~labor~~ industrial compliance 46981
operating fund created in section 121.084 of the Revised Code. 46982

Sec. 4301.30. (A) All fees collected by the division of 46983
liquor control shall be deposited in the state treasury to the 46984
credit of the undivided liquor permit fund, which is hereby 46985
created, at the time prescribed under section 4301.12 of the 46986
Revised Code. Each payment shall be accompanied by a statement 46987
showing separately the amount collected for each class of permits 46988
in each municipal corporation and in each township outside the 46989
limits of any municipal corporation in such township. ~~An~~ 46990

(B)(1) ~~An~~ amount equal to forty-five per cent of the fund 46991
shall be paid from the fund into the state liquor regulatory fund, 46992
which is hereby created in the state treasury. The state liquor 46993
regulatory fund shall be used to pay the operating expenses of the 46994
division of liquor control in administering and enforcing Title 46995
XLIII of the Revised Code and the operating expenses of the liquor 46996
control commission. Investment earnings of the fund shall be 46997
credited to the fund. 46998

(2) Whenever, in the judgment of the director of budget and 46999
management, the amount of money that is in the state liquor 47000
regulatory fund is in excess of the amount that is needed to pay 47001
the operating expenses of the division in administering and 47002
enforcing Title XLIII of the Revised Code and the operating 47003
expenses of the commission, the director shall credit the excess 47004
amount to the general revenue fund. 47005

(C) Twenty per cent of the undivided liquor permit fund shall 47006
be paid into the statewide treatment and prevention fund, which is 47007
hereby created in the state treasury. This amount shall be 47008
appropriated by the general assembly, together with an amount 47009

equal to one and one-half per cent of the gross profit of the 47010
division of liquor control derived under division (B)(4) of 47011
section 4301.10 of the Revised Code, to the department of alcohol 47012
and drug addiction services. In planning for the allocation of and 47013
in allocating these amounts for the purposes of Chapter 3793. of 47014
the Revised Code, the department of alcohol and drug addiction 47015
services shall comply with the nondiscrimination provisions of 47016
Title VI of the Civil Rights Act of 1964, and any rules adopted 47017
under that act. 47018

(D) Thirty-five per cent of the undivided liquor permit fund 47019
shall be distributed by the superintendent of liquor control at 47020
quarterly calendar periods as follows: 47021

~~(A)~~(1) To each municipal corporation, the aggregate amount 47022
shown by the statements to have been collected from permits in the 47023
municipal corporation, for the use of the general fund of the 47024
municipal corporation; 47025

~~(B)~~(2) To each township, the aggregate amount shown by the 47026
statements to have been collected from permits in its territory, 47027
outside the limits of any municipal corporation located in the 47028
township, for the use of the general fund of the township, or for 47029
fire protection purposes, including buildings and equipment in the 47030
township or in an established fire district within the township, 47031
to the extent that the funds are derived from liquor permits 47032
within the territory comprising such fire district. 47033

(E) For the purpose of the distribution required by this 47034
section, E, H, and D permits covering boats or vessels are deemed 47035
to have been issued in the municipal corporation or township 47036
wherein the owner or operator of the vehicle, boat, vessel, or 47037
dining car equipment to which the permit relates has the owner's 47038
or operator's principal office or place of business within the 47039
state. 47040

(F) If the liquor control commission determines that the 47041
police or other officers of any municipal corporation or township 47042
entitled to share in ~~such~~ distributions under this section are 47043
refusing or culpably neglecting to enforce this chapter and 47044
Chapter 4303. of the Revised Code, or the penal laws of this state 47045
relating to the manufacture, importation, transportation, 47046
distribution, and sale of beer and intoxicating liquors, or if the 47047
prosecuting officer of a municipal corporation or a municipal 47048
court fails to comply with the request of the commission 47049
authorized by division (A)(4) of section 4301.10 of the Revised 47050
Code, the commission, by certified mail, may notify the chief 47051
executive officer of the municipal corporation or the board of 47052
township trustees of the township of the failure and require the 47053
immediate cooperation of the responsible officers of the municipal 47054
corporation or township with the division of liquor control in the 47055
enforcement of those chapters and penal laws. Within thirty days 47056
after the notice is served, the commission shall determine whether 47057
the requirement has been complied with. If the commission 47058
determines that the requirement has not been complied with, it may 47059
issue an order to the superintendent to withhold the distributive 47060
share of the municipal corporation or township until further order 47061
of the commission. This action of the commission is reviewable 47062
within thirty days thereafter in the court of common pleas of 47063
Franklin county. 47064

(G) All fees collected by the division of liquor control from 47065
the issuance or renewal of B-2a and S permits, and paid by B-2a 47066
and S permit holders who do not also hold A-2 permits, shall be 47067
deposited in the state treasury to the credit of the state liquor 47068
~~control~~ regulatory fund. Once during each fiscal year, an amount 47069
equal to fifty per cent of the fees collected shall be paid from 47070
the state liquor ~~control~~ regulatory fund into the general revenue 47071
fund. 47072

Sec. 4303.181. (A) Permit D-5a may be issued either to the 47073
owner or operator of a hotel or motel that is required to be 47074
licensed under section 3731.03 of the Revised Code, that contains 47075
at least fifty rooms for registered transient guests or is owned 47076
by a state institution of higher education as defined in section 47077
3345.011 of the Revised Code or a private college or university, 47078
and that qualifies under the other requirements of this section, 47079
or to the owner or operator of a restaurant specified under this 47080
section, to sell beer and any intoxicating liquor at retail, only 47081
by the individual drink in glass and from the container, for 47082
consumption on the premises where sold, and to registered guests 47083
in their rooms, which may be sold by means of a controlled access 47084
alcohol and beverage cabinet in accordance with division (B) of 47085
section 4301.21 of the Revised Code; and to sell the same products 47086
in the same manner and amounts not for consumption on the premises 47087
as may be sold by holders of D-1 and D-2 permits. The premises of 47088
the hotel or motel shall include a retail food establishment or a 47089
food service operation licensed pursuant to Chapter 3717. of the 47090
Revised Code that operates as a restaurant for purposes of this 47091
chapter and that is affiliated with the hotel or motel and within 47092
or contiguous to the hotel or motel, and that serves food within 47093
the hotel or motel, but the principal business of the owner or 47094
operator of the hotel or motel shall be the accommodation of 47095
transient guests. In addition to the privileges authorized in this 47096
division, the holder of a D-5a permit may exercise the same 47097
privileges as the holder of a D-5 permit. 47098

The owner or operator of a hotel, motel, or restaurant who 47099
qualified for and held a D-5a permit on August 4, 1976, may, if 47100
the owner or operator held another permit before holding a D-5a 47101
permit, either retain a D-5a permit or apply for the permit 47102
formerly held, and the division of liquor control shall issue the 47103
permit for which the owner or operator applies and formerly held, 47104

notwithstanding any quota. 471105

A D-5a permit shall not be transferred to another location. 471106

No quota restriction shall be placed on the number of D-5a permits 471107

that may be issued. 471108

The fee for this permit is two thousand three hundred 471109

forty-four dollars. 471110

(B) Permit D-5b may be issued to the owner, operator, tenant, 471111

lessee, or occupant of an enclosed shopping center to sell beer 471112

and intoxicating liquor at retail, only by the individual drink in 471113

glass and from the container, for consumption on the premises 471114

where sold; and to sell the same products in the same manner and 471115

amount not for consumption on the premises as may be sold by 471116

holders of D-1 and D-2 permits. In addition to the privileges 471117

authorized in this division, the holder of a D-5b permit may 471118

exercise the same privileges as a holder of a D-5 permit. 471119

A D-5b permit shall not be transferred to another location. 471120

One D-5b permit may be issued at an enclosed shopping center 471121

containing at least two hundred twenty-five thousand, but less 471122

than four hundred thousand, square feet of floor area. 471123

Two D-5b permits may be issued at an enclosed shopping center 471124

containing at least four hundred thousand square feet of floor 471125

area. No more than one D-5b permit may be issued at an enclosed 471126

shopping center for each additional two hundred thousand square 471127

feet of floor area or fraction of that floor area, up to a maximum 471128

of five D-5b permits for each enclosed shopping center. The number 471129

of D-5b permits that may be issued at an enclosed shopping center 471130

shall be determined by subtracting the number of D-3 and D-5 471131

permits issued in the enclosed shopping center from the number of 471132

D-5b permits that otherwise may be issued at the enclosed shopping 471133

center under the formulas provided in this division. Except as 471134

provided in this section, no quota shall be placed on the number 471135

of D-5b permits that may be issued. Notwithstanding any quota 47136
provided in this section, the holder of any D-5b permit first 47137
issued in accordance with this section is entitled to its renewal 47138
in accordance with section 4303.271 of the Revised Code. 47139

The holder of a D-5b permit issued before April 4, 1984, 47140
whose tenancy is terminated for a cause other than nonpayment of 47141
rent, may return the D-5b permit to the division of liquor 47142
control, and the division shall cancel that permit. Upon 47143
cancellation of that permit and upon the permit holder's payment 47144
of taxes, contributions, premiums, assessments, and other debts 47145
owing or accrued upon the date of cancellation to this state and 47146
its political subdivisions and a filing with the division of a 47147
certification of that payment, the division shall issue to that 47148
person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as 47149
that person requests. The division shall issue the D-5 permit, or 47150
the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, 47151
D-3, or D-5 permits currently issued in the municipal corporation 47152
or in the unincorporated area of the township where that person's 47153
proposed premises is located equals or exceeds the maximum number 47154
of such permits that can be issued in that municipal corporation 47155
or in the unincorporated area of that township under the 47156
population quota restrictions contained in section 4303.29 of the 47157
Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not 47158
be transferred to another location. If a D-5b permit is canceled 47159
under the provisions of this paragraph, the number of D-5b permits 47160
that may be issued at the enclosed shopping center for which the 47161
D-5b permit was issued, under the formula provided in this 47162
division, shall be reduced by one if the enclosed shopping center 47163
was entitled to more than one D-5b permit under the formula. 47164

The fee for this permit is two thousand three hundred 47165
forty-four dollars. 47166

(C) Permit D-5c may be issued to the owner or operator of a 47167

retail food establishment or a food service operation licensed 47168
pursuant to Chapter 3717. of the Revised Code that operates as a 47169
restaurant for purposes of this chapter and that qualifies under 47170
the other requirements of this section to sell beer and any 47171
intoxicating liquor at retail, only by the individual drink in 47172
glass and from the container, for consumption on the premises 47173
where sold, and to sell the same products in the same manner and 47174
amounts not for consumption on the premises as may be sold by 47175
holders of D-1 and D-2 permits. In addition to the privileges 47176
authorized in this division, the holder of a D-5c permit may 47177
exercise the same privileges as the holder of a D-5 permit. 47178

To qualify for a D-5c permit, the owner or operator of a 47179
retail food establishment or a food service operation licensed 47180
pursuant to Chapter 3717. of the Revised Code that operates as a 47181
restaurant for purposes of this chapter, shall have operated the 47182
restaurant at the proposed premises for not less than twenty-four 47183
consecutive months immediately preceding the filing of the 47184
application for the permit, have applied for a D-5 permit no later 47185
than December 31, 1988, and appear on the division's quota waiting 47186
list for not less than six months immediately preceding the filing 47187
of the application for the permit. In addition to these 47188
requirements, the proposed D-5c permit premises shall be located 47189
within a municipal corporation and further within an election 47190
precinct that, at the time of the application, has no more than 47191
twenty-five per cent of its total land area zoned for residential 47192
use. 47193

A D-5c permit shall not be transferred to another location. 47194
No quota restriction shall be placed on the number of such permits 47195
that may be issued. 47196

Any person who has held a D-5c permit for at least two years 47197
may apply for a D-5 permit, and the division of liquor control 47198
shall issue the D-5 permit notwithstanding the quota restrictions 47199

contained in section 4303.29 of the Revised Code or in any rule of 47200
the liquor control commission. 47201

The fee for this permit is one thousand five hundred 47202
sixty-three dollars. 47203

(D) Permit D-5d may be issued to the owner or operator of a 47204
retail food establishment or a food service operation licensed 47205
pursuant to Chapter 3717. of the Revised Code that operates as a 47206
restaurant for purposes of this chapter and that is located at an 47207
airport operated by a board of county commissioners pursuant to 47208
section 307.20 of the Revised Code, at an airport operated by a 47209
port authority pursuant to Chapter 4582. of the Revised Code, or 47210
at an airport operated by a regional airport authority pursuant to 47211
Chapter 308. of the Revised Code. The holder of a D-5d permit may 47212
sell beer and any intoxicating liquor at retail, only by the 47213
individual drink in glass and from the container, for consumption 47214
on the premises where sold, and may sell the same products in the 47215
same manner and amounts not for consumption on the premises where 47216
sold as may be sold by the holders of D-1 and D-2 permits. In 47217
addition to the privileges authorized in this division, the holder 47218
of a D-5d permit may exercise the same privileges as the holder of 47219
a D-5 permit. 47220

A D-5d permit shall not be transferred to another location. 47221
No quota restrictions shall be placed on the number of such 47222
permits that may be issued. 47223

The fee for this permit is two thousand three hundred 47224
forty-four dollars. 47225

(E) Permit D-5e may be issued to any nonprofit organization 47226
that is exempt from federal income taxation under the "Internal 47227
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as 47228
amended, or that is a charitable organization under any chapter of 47229
the Revised Code, and that owns or operates a riverboat that meets 47230

| | |
|---|--|
| all of the following: | 47231 |
| (1) Is permanently docked at one location; | 47232 |
| (2) Is designated as an historical riverboat by the Ohio historical society; | 47233 47234 |
| (3) Contains not less than fifteen hundred square feet of floor area; | 47235 47236 |
| (4) Has a seating capacity of fifty or more persons. | 47237 |
| The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. | 47238 47239 47240 |
| A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited. | 47241 47242 47243 47244 47245 47246 47247 47248 47249 47250 |
| The fee for this permit is one thousand two hundred nineteen dollars. | 47251 47252 |
| (F) Permit D-5f may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following: | 47253 47254 47255 47256 47257 |
| (1) It contains not less than twenty-five hundred square feet of floor area. | 47258 47259 |
| (2) It is located on or in, or immediately adjacent to, the | 47260 |

shoreline of, a navigable river. 47261

(3) It provides docking space for twenty-five boats. 47262

(4) It provides entertainment and recreation, provided that 47263
not less than fifty per cent of the business on the permit 47264
premises shall be preparing and serving meals for a consideration. 47265

In addition, each application for a D-5f permit shall be 47266
accompanied by a certification from the local legislative 47267
authority that the issuance of the D-5f permit is not inconsistent 47268
with that political subdivision's comprehensive development plan 47269
or other economic development goal as officially established by 47270
the local legislative authority. 47271

The holder of a D-5f permit may sell beer and intoxicating 47272
liquor at retail, only by the individual drink in glass and from 47273
the container, for consumption on the premises where sold. 47274

A D-5f permit shall not be transferred to another location. 47275

The division of liquor control shall not issue a D-5f permit 47276
if the permit premises or proposed permit premises are located 47277
within an area in which the sale of spirituous liquor by the glass 47278
is prohibited. 47279

A fee for this permit is two thousand three hundred 47280
forty-four dollars. 47281

As used in this division, "navigable river" means a river 47282
that is also a "navigable water" as defined in the "Federal Power 47283
Act," 94 Stat. 770 (1980), 16 U.S.C. 796. 47284

(G) Permit D-5g may be issued to a nonprofit corporation that 47285
is either the owner or the operator of a national professional 47286
sports museum. The holder of a D-5g permit may sell beer and any 47287
intoxicating liquor at retail, only by the individual drink in 47288
glass and from the container, for consumption on the premises 47289
where sold. The holder of a D-5g permit shall sell no beer or 47290

intoxicating liquor for consumption on the premises where sold 47291
after ~~one~~ two-thirty a.m. A D-5g permit shall not be transferred 47292
to another location. No quota restrictions shall be placed on the 47293
number of D-5g permits that may be issued. The fee for this permit 47294
is one thousand eight hundred seventy-five dollars. 47295

(H)(1) Permit D-5h may be issued to any nonprofit 47296
organization that is exempt from federal income taxation under the 47297
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 47298
501(c)(3), as amended, that owns or operates any of the following: 47299

(a) A fine arts museum, provided that the nonprofit 47300
organization has no less than one thousand five hundred bona fide 47301
members possessing full membership privileges; 47302

(b) A community arts center. As used in division (H)(1)(b) of 47303
this section, "community arts center" means a facility that 47304
provides arts programming to the community in more than one arts 47305
discipline, including, but not limited to, exhibits of works of 47306
art and performances by both professional and amateur artists. 47307

(c) A community theater, provided that the nonprofit 47308
organization is a member of the Ohio arts council and the American 47309
community theatre association and has been in existence for not 47310
less than ten years. As used in division (H)(1)(c) of this 47311
section, "community theater" means a facility that contains at 47312
least one hundred fifty seats and has a primary function of 47313
presenting live theatrical performances and providing recreational 47314
opportunities to the community. 47315

(2) The holder of a D-5h permit may sell beer and any 47316
intoxicating liquor at retail, only by the individual drink in 47317
glass and from the container, for consumption on the premises 47318
where sold. The holder of a D-5h permit shall sell no beer or 47319
intoxicating liquor for consumption on the premises where sold 47320
after one a.m. A D-5h permit shall not be transferred to another 47321

location. No quota restrictions shall be placed on the number of 47322
D-5h permits that may be issued. 47323

(3) The fee for a D-5h permit is one thousand eight hundred 47324
seventy-five dollars. 47325

(I) Permit D-5i may be issued to the owner or operator of a 47326
retail food establishment or a food service operation licensed 47327
under Chapter 3717. of the Revised Code that operates as a 47328
restaurant for purposes of this chapter and that meets all of the 47329
following requirements: 47330

(1) It is located in a municipal corporation or a township 47331
with a population of one hundred thousand or less. 47332

(2) It has inside seating capacity for at least one hundred 47333
forty persons. 47334

(3) It has at least four thousand square feet of floor area. 47335

(4) It offers full-course meals, appetizers, and sandwiches. 47336

(5) Its receipts from beer and liquor sales, excluding wine 47337
sales, do not exceed twenty-five per cent of its total gross 47338
receipts. 47339

(6) It has at least one of the following characteristics: 47340

(a) The value of its real and personal property exceeds seven 47341
hundred twenty-five thousand dollars. 47342

(b) It is located on property that is owned or leased by the 47343
state or a state agency, and its owner or operator has 47344
authorization from the state or the state agency that owns or 47345
leases the property to obtain a D-5i permit. 47346

The holder of a D-5i permit may sell beer and any 47347
intoxicating liquor at retail, only by the individual drink in 47348
glass and from the container, for consumption on the premises 47349
where sold, and may sell the same products in the same manner and 47350
amounts not for consumption on the premises where sold as may be 47351

sold by the holders of D-1 and D-2 permits. The holder of a D-5i 47352
permit shall sell no beer or intoxicating liquor for consumption 47353
on the premises where sold after two-thirty a.m. In addition to 47354
the privileges authorized in this division, the holder of a D-5i 47355
permit may exercise the same privileges as the holder of a D-5 47356
permit. 47357

A D-5i permit shall not be transferred to another location. 47358
The division of liquor control shall not renew a D-5i permit 47359
unless the retail food establishment or food service operation for 47360
which it is issued continues to meet the requirements described in 47361
divisions (I)(1) to (6) of this section. No quota restrictions 47362
shall be placed on the number of D-5i permits that may be issued. 47363
The fee for the D-5i permit is two thousand three hundred 47364
forty-four dollars. 47365

(J) Permit D-5j may be issued to the owner or the operator of 47366
a retail food establishment or a food service operation licensed 47367
under Chapter 3717. of the Revised Code to sell beer and 47368
intoxicating liquor at retail, only by the individual drink in 47369
glass and from the container, for consumption on the premises 47370
where sold and to sell beer and intoxicating liquor in the same 47371
manner and amounts not for consumption on the premises where sold 47372
as may be sold by the holders of D-1 and D-2 permits. The holder 47373
of a D-5j permit may exercise the same privileges, and shall 47374
observe the same hours of operation, as the holder of a D-5 47375
permit. 47376

The D-5j permit shall be issued only within a community 47377
entertainment district that is designated under section 4301.80 of 47378
the Revised Code and that meets one of the following 47379
qualifications: 47380

(1) It is located in a municipal corporation with a 47381
population of at least one hundred thousand. 47382

(2) It is located in a municipal corporation with a population of at least twenty thousand, and either of the following applies:

(a) It contains an amusement park the rides of which have been issued a permit by the department of agriculture under Chapter 1711. of the Revised Code.

(b) Not less than fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(3) It is located in a township with a population of at least forty thousand.

(4) It is located in a township with a population of at least twenty thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the township.

(5) It is located in a municipal corporation with a population between ten thousand and twenty thousand, and both of the following apply:

(a) The municipal corporation was incorporated as a village prior to calendar year 1840 and currently has a historic downtown business district.

(b) The municipal corporation is located in the same county as another municipal corporation with at least one community entertainment district.

(6) It is located in a municipal corporation with a population of at least ten thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(7) It is located in a municipal corporation with a

population of at least five thousand, and not less than one 47413
hundred million dollars will be invested in development and 47414
construction in the community entertainment district's area 47415
located in the municipal corporation. 47416

The location of a D-5j permit may be transferred only within 47417
the geographic boundaries of the community entertainment district 47418
in which it was issued and shall not be transferred outside the 47419
geographic boundaries of that district. 47420

Not more than one D-5j permit shall be issued within each 47421
community entertainment district for each five acres of land 47422
located within the district. Not more than fifteen D-5j permits 47423
may be issued within a single community entertainment district. 47424
Except as otherwise provided in division (J)(4) of this section, 47425
no quota restrictions shall be placed upon the number of D-5j 47426
permits that may be issued. 47427

The fee for a D-5j permit is two thousand three hundred 47428
forty-four dollars. 47429

(K)(1) Permit D-5k may be issued to any nonprofit 47430
organization that is exempt from federal income taxation under the 47431
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 47432
501(c)(3), as amended, that is the owner or operator of a 47433
botanical garden recognized by the American association of 47434
botanical gardens and arboreta, and that has not less than 47435
twenty-five hundred bona fide members. 47436

(2) The holder of a D-5k permit may sell beer and any 47437
intoxicating liquor at retail, only by the individual drink in 47438
glass and from the container, on the premises where sold. 47439

(3) The holder of a D-5k permit shall sell no beer or 47440
intoxicating liquor for consumption on the premises where sold 47441
after one a.m. 47442

(4) A D-5k permit shall not be transferred to another 47443

location. 47444

(5) No quota restrictions shall be placed on the number of 47445
D-5k permits that may be issued. 47446

(6) The fee for the D-5k permit is one thousand eight hundred 47447
seventy-five dollars. 47448

(L)(1) Permit D-51 may be issued to the owner or the operator 47449
of a ~~business~~ retail food establishment or a food service 47450
operation licensed under Chapter 3717. of the Revised Code to sell 47451
beer and intoxicating liquor at retail, only by the individual 47452
drink in glass and from the container, for consumption on the 47453
premises where sold and to sell beer and intoxicating liquor in 47454
the same manner and amounts not for consumption on the premises 47455
where sold as may be sold by the holders of D-1 and D-2 permits. 47456
The holder of a D-51 permit may exercise the same privileges, and 47457
shall observe the same hours of operation, as the holder of a D-5 47458
permit. 47459

(2) The D-51 permit shall be issued only to a premises that 47460
has gross annual receipts from the sale of food and meals that 47461
constitute not less than seventy-five per cent of its total gross 47462
annual receipts, that is located within a revitalization district 47463
that is designated under section 4301.81 of the Revised Code, that 47464
is located in a municipal corporation or township in which the 47465
number of D-5 permits issued equals or exceeds the number of those 47466
permits that may be issued in that municipal corporation or 47467
township under section 4303.29 of the Revised Code, and that is 47468
located in a county with a population of one hundred twenty-five 47469
thousand or less according to the population estimates certified 47470
by the department of development for calendar year 2006. 47471

(3) The location of a D-51 permit may be transferred only 47472
within the geographic boundaries of the revitalization district in 47473
which it was issued and shall not be transferred outside the 47474

geographic boundaries of that district. 47475

(4) Not more than one D-5l permit shall be issued within each 47476
revitalization district for each five acres of land located within 47477
the district. Not more than fifteen D-5l permits may be issued 47478
within a single revitalization district. Except as otherwise 47479
provided in division (L)(4) of this section, no quota restrictions 47480
shall be placed upon the number of D-5l permits that may be 47481
issued. 47482

(5) No D-5l permit shall be issued to an adult entertainment 47483
establishment as defined in section 2907.39 of the Revised Code. 47484

(6) The fee for a D-5l permit is two thousand three hundred 47485
forty-four dollars. 47486

(M) Permit D-5m may be issued to either the owner or the 47487
operator of a retail food establishment or food service operation 47488
licensed under Chapter 3717. of the Revised Code that operates as 47489
a restaurant for purposes of this chapter and that is located in, 47490
or affiliated with, a center for the preservation of wild animals 47491
as defined in section 4301.404 of the Revised Code, to sell beer 47492
and any intoxicating liquor at retail, only by the glass and from 47493
the container, for consumption on the premises where sold, and to 47494
sell the same products in the same manner and amounts not for 47495
consumption on the premises as may be sold by the holders of D-1 47496
and D-2 permits. In addition to the privileges authorized by this 47497
division, the holder of a D-5m permit may exercise the same 47498
privileges as the holder of a D-5 permit. 47499

A D-5m permit shall not be transferred to another location. 47500
No quota restrictions shall be placed on the number of D-5m 47501
permits that may be issued. The fee for a permit D-5m is two 47502
thousand three hundred forty-four dollars. 47503

(N) Permit D-5n shall be issued to either a casino operator 47504
or a casino management company licensed under Chapter 3772. of the 47505

Revised Code that operates a casino facility under that chapter, 47506
to sell beer and any intoxicating liquor at retail, only by the 47507
individual drink in glass and from the container, for consumption 47508
on the premises where sold, and to sell the same products in the 47509
same manner and amounts not for consumption on the premises as may 47510
be sold by the holders of D-1 and D-2 permits. In addition to the 47511
privileges authorized by this division, the holder of a D-5n 47512
permit may exercise the same privileges as the holder of a D-5 47513
permit. A D-5n permit shall not be transferred to another 47514
location. Only one D-5n permit may be issued per casino facility 47515
and not more than four D-5n permits shall be issued in this state. 47516
The fee for a permit D-5n shall be twenty thousand dollars. The 47517
holder of a D-5n permit may conduct casino gaming on the permit 47518
premises notwithstanding any provision of the Revised Code or 47519
Administrative Code. 47520

(O) Permit D-5o may be issued to the owner or operator of a 47521
retail food establishment or a food service operation licensed 47522
under Chapter 3717. of the Revised Code that operates as a 47523
restaurant for purposes of this chapter and that is located within 47524
a casino facility for which a D-5n permit has been issued. The 47525
holder of a D-5o permit may sell beer and any intoxicating liquor 47526
at retail, only by the individual drink in glass and from the 47527
container, for consumption on the premises where sold, and may 47528
sell the same products in the same manner and amounts not for 47529
consumption on the premises where sold as may be sold by the 47530
holders of D-1 and D-2 permits. In addition to the privileges 47531
authorized by this division, the holder of a D-5o permit may 47532
exercise the same privileges as the holder of a D-5 permit. A D-5o 47533
permit shall not be transferred to another location. No quota 47534
restrictions shall be placed on the number of such permits that 47535
may be issued. The fee for this permit is two thousand three 47536
hundred forty-four dollars. 47537

Sec. 4303.22. Permit H may be issued for a fee of three 47538
hundred dollars to a for-hire motor carrier ~~by motor vehicle~~ who 47539
~~also~~ holds a license issued by the public utilities commission to 47540
transport beer, intoxicating liquor, and alcohol, or any of them, 47541
in this state for delivery or use in this state. This section does 47542
not prevent the division of liquor control from contracting with 47543
~~common or contract~~ for-hire motor carriers for the delivery or 47544
transportation of liquor for the division, and any ~~contract or~~ 47545
~~common~~ for-hire motor carrier so contracting with the division is 47546
eligible for an H permit. Manufacturers or wholesale distributors 47547
of beer or intoxicating liquor other than spirituous liquor who 47548
transport or deliver their own products to or from their premises 47549
licensed under this chapter and Chapter 4301. of the Revised Code 47550
by their own trucks as an incident to the purchase or sale of such 47551
beverages need not obtain an H permit. Carriers by rail shall 47552
receive an H permit upon application for it. 47553

This section does not prevent the division from issuing, upon 47554
the payment of the permit fee, an H permit to any person, 47555
partnership, firm, or corporation licensed by any other state to 47556
engage in the business of manufacturing and brewing or producing 47557
beer, wine, and mixed beverages or any person, partnership, firm, 47558
or corporation licensed by the United States or any other state to 47559
engage in the business of importing beer, wine, and mixed 47560
beverages manufactured outside the United States. The 47561
manufacturer, brewer, or importer of products manufactured outside 47562
the United States, upon the issuance of an H permit, may 47563
transport, ship, and deliver only its own products to holders of 47564
B-1 or B-5 permits in Ohio in motor trucks and equipment owned and 47565
operated by such class H permit holder. No H permit shall be 47566
issued by the division to such applicant until the applicant files 47567
with the division a liability insurance certificate or policy 47568
satisfactory to the division, in a sum of not less than one 47569

thousand nor more than five thousand dollars for property damage 47570
and for not less than five thousand nor more than fifty thousand 47571
dollars for loss sustained by reason of injury or death and with 47572
such other terms as the division considers necessary to adequately 47573
protect the interest of the public, having due regard for the 47574
number of persons and amount of property affected. The certificate 47575
or policy shall insure the manufacturer, brewer, or importer of 47576
products manufactured outside the United States against loss 47577
sustained by reason of the death of or injury to persons, and for 47578
loss of or damage to property, from the negligence of such class H 47579
permit holder in the operation of its motor vehicles or equipment 47580
in this state. 47581

Sec. 4313.02. (A) The state may transfer to JobsOhio, and 47582
JobsOhio may accept the transfer of, all or a portion of the 47583
enterprise acquisition project for a transfer price payable by 47584
JobsOhio to the state. Any such transfer shall be treated as an 47585
absolute conveyance and true sale of the interest in the 47586
enterprise acquisition project purported to be conveyed for all 47587
purposes, and not as a pledge or other security interest. The 47588
characterization of any such transfer as a true sale and absolute 47589
conveyance shall not be negated or adversely affected by the 47590
acquisition or retention by the state of a residual or 47591
reversionary interest in the enterprise acquisition project, the 47592
participation of any state officer or employee as a member or 47593
officer of, or contracting for staff support to, JobsOhio or any 47594
subsidiary of JobsOhio, any regulatory responsibility of an 47595
officer or employee of the state, including the authority to 47596
collect amounts to be received in connection therewith, the 47597
retention of the state of any legal title to or interest in any 47598
portion of the enterprise acquisition project for the purpose of 47599
regulatory activities, or any characterization of JobsOhio or 47600
obligations of JobsOhio under accounting, taxation, or securities 47601

regulations, or any other reason whatsoever. An absolute 47602
conveyance and true sale or lease shall exist under this section 47603
regardless of whether JobsOhio has any recourse against the state 47604
or the treatment or characterization of the transfer as a 47605
financing for any purpose. Upon and following the transfer, the 47606
state shall not have any right, title, or interest in the 47607
enterprise acquisition project so transferred other than any 47608
residual interest that may be described in the transfer agreement 47609
pursuant to the following paragraph and division (D) of this 47610
section. Any determination of the fair market value of the 47611
enterprise acquisition project reflected in the transfer agreement 47612
shall be conclusive and binding on the state and JobsOhio. 47613

Any transfer of the enterprise acquisition project that is a 47614
lease or grant of a franchise shall be for a term not to exceed 47615
twenty-five years. Any transfer of the enterprise acquisition 47616
project that is an assignment and sale, conveyance, or other 47617
transfer shall contain a provision that the state shall have the 47618
option to have conveyed or transferred back to it, at no cost, the 47619
enterprise acquisition project, as it then exists, no later than 47620
twenty-five years after the original transfer authorized in the 47621
transfer agreement on such other terms as shall be provided in the 47622
transfer agreement. 47623

The exercise of the powers granted by this section will be 47624
for the benefit of the people of the state. All or any portion of 47625
the enterprise acquisition project transferred pursuant to the 47626
transfer agreement that would be exempt from real property taxes 47627
or assessments or real property taxes or assessments in the 47628
absence of such transfer shall, as it may from time to time exist 47629
thereafter, remain exempt from real property taxes or assessments 47630
levied by the state and its subdivisions to the same extent as if 47631
not transferred. The gross receipts and income of JobsOhio derived 47632
from the enterprise acquisition project shall be exempt from 47633

taxation levied by the state and its subdivisions, including, but 47634
not limited to, the taxes levied pursuant to Chapters 718., 5739., 47635
5741., 5747., and 5751. of the Revised Code. Any transfer from the 47636
state to JobsOhio of the enterprise acquisition project, or item 47637
included or to be included in the project, shall be exempt from 47638
the taxes levied pursuant to Chapters 5739. and 5741. of the 47639
Revised Code. 47640

(B) The proceeds of any transfer under division (A) of this 47641
section may be expended as provided in the transfer agreement for 47642
any one or more of the following purposes: 47643

(1) Funding, payment, or defeasance of outstanding bonds 47644
issued pursuant to Chapters 151. and 166. of the Revised Code and 47645
secured by pledged liquor profits as defined in section 151.40 of 47646
the Revised Code; 47647

(2) Deposit into the general revenue fund; 47648

(3) Deposit into the clean Ohio revitalization fund created 47649
pursuant to section 122.658 of the Revised Code, the innovation 47650
Ohio loan fund created pursuant to section 166.16 of the Revised 47651
Code, the research and development loan fund created pursuant to 47652
section 166.20 of the Revised Code, the logistics and distribution 47653
infrastructure fund created pursuant to section 166.26 of the 47654
Revised Code, the advanced energy research and development fund 47655
created pursuant to section 3706.27 of the Revised Code, and the 47656
advanced energy research and development taxable fund created 47657
pursuant to section 3706.27 of the Revised Code; 47658

(4) Conveyance to JobsOhio for the purposes for which it was 47659
created. 47660

(C)(1) The state may covenant, pledge, and agree in the 47661
transfer agreement, with and for the benefit of JobsOhio, that it 47662
shall maintain statutory authority for the enterprise acquisition 47663
project and the revenues of the enterprise acquisition project and 47664

not otherwise materially impair any obligations supported by a 47665
pledge of revenues of the enterprise acquisition project. The 47666
transfer agreement may provide or authorize the manner for 47667
determining material impairment of the security for any such 47668
outstanding obligations, including by assessing and evaluating the 47669
revenues of the enterprise acquisition project. 47670

(2) The director of budget and management, in consultation 47671
with the director of commerce, may, without need for any other 47672
approval, negotiate terms of any documents, including the transfer 47673
agreement, necessary to effect the transfer and the acceptance of 47674
the transfer of the enterprise acquisition project. The director 47675
of budget and management and the director of commerce shall 47676
execute the transfer agreement on behalf of the state. The 47677
director of budget and management may also, without need for any 47678
other approval, retain or contract for the services of commercial 47679
appraisers, underwriters, investment bankers, and financial 47680
advisers, as are necessary in the judgment of the director of 47681
budget and management to effect the transfer agreement. Any 47682
transfer agreement may contain terms and conditions established by 47683
the state to carry out and effectuate the purposes of this 47684
section, including, without limitation, covenants binding the 47685
state in favor of JobsOhio. Any such transfer agreement shall be 47686
sufficient to effectuate the transfer without regard to any other 47687
laws governing other property sales or financial transactions by 47688
the state. The director of budget and management may create any 47689
funds or accounts, within or without the state treasury, as are 47690
needed for the transactions and activities authorized by this 47691
section. 47692

(3) The transfer agreement may authorize JobsOhio, in the 47693
ordinary course of doing business, to convey, lease, release, or 47694
otherwise dispose of any regular inventory or tangible personal 47695
property. Ownership of the interest in the enterprise acquisition 47696

project that is transferred to JobsOhio under this section and the 47697
transfer agreement shall be maintained in JobsOhio or a nonprofit 47698
entity the sole member of which is JobsOhio until the enterprise 47699
acquisition project is transferred back to the state pursuant to 47700
the second paragraph of division (A) and division (D) of this 47701
section. 47702

(D) The transfer agreement may authorize JobsOhio to fix, 47703
alter, and collect rentals and other charges for the use and 47704
occupancy of all or any portion of the enterprise acquisition 47705
project and to lease any portion of the enterprise acquisition 47706
project to the state, and shall include a contract with, or the 47707
granting of an option to, the state to have the enterprise 47708
acquisition project, as it then exists, transferred back to it 47709
without charge in accordance with the terms of the transfer 47710
agreement after retirement or redemption, or provision therefor, 47711
of all obligations supported by a pledge of spirituous liquor 47712
profits. 47713

(E) JobsOhio, the director of budget and management, and the 47714
director of commerce shall, subject to approval by the controlling 47715
board, enter into a contract, which may be part of the transfer 47716
agreement, for the continuing operation by the division of liquor 47717
control of spirituous liquor distribution and merchandising 47718
subject to standards for performance provided in that contract 47719
that may relate to or support division (C)(1) of this section. The 47720
contract shall establish other terms and conditions for the 47721
assignment of duties to, and the provision of advice, services, 47722
and other assistance by, the division of liquor control, including 47723
providing for the necessary staffing and payment by JobsOhio of 47724
appropriate compensation to the division for the performance of 47725
such duties and the provision of such advice, services, and other 47726
assistance. The division of liquor control shall manage and 47727
actively supervise the activities required or authorized under 47728

sections 4301.10 and 4301.17 of the Revised Code as those sections 47729
exist on ~~the effective date of this section~~ September 29, 2011, 47730
including, but not limited to, controlling the traffic in 47731
intoxicating liquor in this state and fixing the wholesale and 47732
retail prices at which the various classes, varieties, and brands 47733
of spirituous liquor are sold. 47734

(F) The transfer agreement shall require JobsOhio to pay for 47735
the operations of the division of liquor control with regard to 47736
the spirituous liquor merchandising operations of the division. 47737
The payments from JobsOhio shall be deposited into the state 47738
treasury to the credit of the liquor ~~control~~ operating services 47739
fund ~~created in section 4301.12 of the Revised Code,~~ which is 47740
hereby created in the state treasury. The fund shall be used to 47741
pay for the operations of the division specified in this division. 47742

(G) The transaction and transfer provided for under this 47743
section shall comply with all applicable provisions of the Ohio 47744
Constitution. 47745

Sec. 4501.01. As used in this chapter and Chapters 4503., 47746
4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the 47747
Revised Code, and in the penal laws, except as otherwise provided: 47748

(A) "Vehicles" means everything on wheels or runners, 47749
including motorized bicycles, but does not mean electric personal 47750
assistive mobility devices, vehicles that are operated exclusively 47751
on rails or tracks or from overhead electric trolley wires, and 47752
vehicles that belong to any police department, municipal fire 47753
department, or volunteer fire department, or that are used by such 47754
a department in the discharge of its functions. 47755

(B) "Motor vehicle" means any vehicle, including mobile homes 47756
and recreational vehicles, that is propelled or drawn by power 47757
other than muscular power or power collected from overhead 47758
electric trolley wires. "Motor vehicle" does not include utility 47759

vehicles as defined in division (VV) of this section, motorized 47760
bicycles, road rollers, traction engines, power shovels, power 47761
cranes, and other equipment used in construction work and not 47762
designed for or employed in general highway transportation, 47763
well-drilling machinery, ditch-digging machinery, farm machinery, 47764
and trailers that are designed and used exclusively to transport a 47765
boat between a place of storage and a marina, or in and around a 47766
marina, when drawn or towed on a public road or highway for a 47767
distance of no more than ten miles and at a speed of twenty-five 47768
miles per hour or less. 47769

(C) "Agricultural tractor" and "traction engine" mean any 47770
self-propelling vehicle that is designed or used for drawing other 47771
vehicles or wheeled machinery, but has no provisions for carrying 47772
loads independently of such other vehicles, and that is used 47773
principally for agricultural purposes. 47774

(D) "Commercial tractor," except as defined in division (C) 47775
of this section, means any motor vehicle that has motive power and 47776
either is designed or used for drawing other motor vehicles, or is 47777
designed or used for drawing another motor vehicle while carrying 47778
a portion of the other motor vehicle or its load, or both. 47779

(E) "Passenger car" means any motor vehicle that is designed 47780
and used for carrying not more than nine persons and includes any 47781
motor vehicle that is designed and used for carrying not more than 47782
fifteen persons in a ridesharing arrangement. 47783

(F) "Collector's vehicle" means any motor vehicle or 47784
agricultural tractor or traction engine that is of special 47785
interest, that has a fair market value of one hundred dollars or 47786
more, whether operable or not, and that is owned, operated, 47787
collected, preserved, restored, maintained, or used essentially as 47788
a collector's item, leisure pursuit, or investment, but not as the 47789
owner's principal means of transportation. "Licensed collector's 47790
vehicle" means a collector's vehicle, other than an agricultural 47791

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, including a farm truck as defined in section 4503.04 of the Revised Code, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

(I) "Bus" means any motor vehicle that has motor power and is designed and used for carrying more than nine passengers, except any motor vehicle that is designed and used for carrying not more than fifteen passengers in a ridesharing arrangement.

(J) "Commercial car" or "truck" means any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor.

(K) "Bicycle" means every device, other than a tricycle that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which any person may ride, and that has two tandem wheels, or one wheel in front and two wheels in the rear, or two wheels in the front and one wheel in the rear, any of which is more than fourteen inches in diameter.

(L) "Motorized bicycle" means any vehicle that either has two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled, and that is equipped with

a helper motor of not more than fifty cubic centimeters piston 47823
displacement that produces no more than one brake horsepower and 47824
is capable of propelling the vehicle at a speed of no greater than 47825
twenty miles per hour on a level surface. 47826

(M) "Trailer" means any vehicle without motive power that is 47827
designed or used for carrying property or persons wholly on its 47828
own structure and for being drawn by a motor vehicle, and includes 47829
any such vehicle that is formed by or operated as a combination of 47830
a semitrailer and a vehicle of the dolly type such as that 47831
commonly known as a trailer dolly, a vehicle used to transport 47832
agricultural produce or agricultural production materials between 47833
a local place of storage or supply and the farm when drawn or 47834
towed on a public road or highway at a speed greater than 47835
twenty-five miles per hour, and a vehicle that is designed and 47836
used exclusively to transport a boat between a place of storage 47837
and a marina, or in and around a marina, when drawn or towed on a 47838
public road or highway for a distance of more than ten miles or at 47839
a speed of more than twenty-five miles per hour. "Trailer" does 47840
not include a manufactured home or travel trailer. 47841

(N) "Noncommercial trailer" means any trailer, except a 47842
travel trailer or trailer that is used to transport a boat as 47843
described in division (B) of this section, but, where applicable, 47844
includes a vehicle that is used to transport a boat as described 47845
in division (M) of this section, that has a gross weight of no 47846
more than ten thousand pounds, and that is used exclusively for 47847
purposes other than engaging in business for a profit, such as the 47848
transportation of personal items for personal or recreational 47849
purposes. 47850

(O) "Mobile home" means a building unit or assembly of closed 47851
construction that is fabricated in an off-site facility, is more 47852
than thirty-five body feet in length or, when erected on site, is 47853
three hundred twenty or more square feet, is built on a permanent 47854

chassis, is transportable in one or more sections, and does not 47855
qualify as a manufactured home as defined in division (C)(4) of 47856
section 3781.06 of the Revised Code or as an industrialized unit 47857
as defined in division (C)(3) of section 3781.06 of the Revised 47858
Code. 47859

(P) "Semitrailer" means any vehicle of the trailer type that 47860
does not have motive power and is so designed or used with another 47861
and separate motor vehicle that in operation a part of its own 47862
weight or that of its load, or both, rests upon and is carried by 47863
the other vehicle furnishing the motive power for propelling 47864
itself and the vehicle referred to in this division, and includes, 47865
for the purpose only of registration and taxation under those 47866
chapters, any vehicle of the dolly type, such as a trailer dolly, 47867
that is designed or used for the conversion of a semitrailer into 47868
a trailer. 47869

(Q) "Recreational vehicle" means a vehicular portable 47870
structure that meets all of the following conditions: 47871

(1) It is designed for the sole purpose of recreational 47872
travel. 47873

(2) It is not used for the purpose of engaging in business 47874
for profit. 47875

(3) It is not used for the purpose of engaging in intrastate 47876
commerce. 47877

(4) It is not used for the purpose of commerce as defined in 47878
49 C.F.R. 383.5, as amended. 47879

(5) It is not regulated by the public utilities commission 47880
pursuant to Chapter ~~4919~~ 4905., 4921., or 4923. of the Revised 47881
Code. 47882

(6) It is classed as one of the following: 47883

(a) "Travel trailer" means a nonself-propelled recreational 47884

vehicle that does not exceed an overall length of thirty-five 47885
feet, exclusive of bumper and tongue or coupling, and contains 47886
less than three hundred twenty square feet of space when erected 47887
on site. "Travel trailer" includes a tent-type fold-out camping 47888
trailer as defined in section 4517.01 of the Revised Code. 47889

(b) "Motor home" means a self-propelled recreational vehicle 47890
that has no fifth wheel and is constructed with permanently 47891
installed facilities for cold storage, cooking and consuming of 47892
food, and for sleeping. 47893

(c) "Truck camper" means a nonself-propelled recreational 47894
vehicle that does not have wheels for road use and is designed to 47895
be placed upon and attached to a motor vehicle. "Truck camper" 47896
does not include truck covers that consist of walls and a roof, 47897
but do not have floors and facilities enabling them to be used as 47898
a dwelling. 47899

(d) "Fifth wheel trailer" means a vehicle that is of such 47900
size and weight as to be movable without a special highway permit, 47901
that has a gross trailer area of four hundred square feet or less, 47902
that is constructed with a raised forward section that allows a 47903
bi-level floor plan, and that is designed to be towed by a vehicle 47904
equipped with a fifth-wheel hitch ordinarily installed in the bed 47905
of a truck. 47906

(e) "Park trailer" means a vehicle that is commonly known as 47907
a park model recreational vehicle, meets the American national 47908
standard institute standard A119.5 (1988) for park trailers, is 47909
built on a single chassis, has a gross trailer area of four 47910
hundred square feet or less when set up, is designed for seasonal 47911
or temporary living quarters, and may be connected to utilities 47912
necessary for the operation of installed features and appliances. 47913

(R) "Pneumatic tires" means tires of rubber and fabric or 47914
tires of similar material, that are inflated with air. 47915

(S) "Solid tires" means tires of rubber or similar elastic material that are not dependent upon confined air for support of the load. 47916
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(T) "Solid tire vehicle" means any vehicle that is equipped with two or more solid tires. 47919
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(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 machinery used in the production of horticultural, agricultural, and vegetable products. 47921
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(V) "Owner" includes any person or firm, other than a manufacturer or dealer, that has title to a motor vehicle, except that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" includes in addition manufacturers and dealers. 47929
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(W) "Manufacturer" and "dealer" include all persons and firms that are regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles, at an established place of business that is used exclusively for the purpose of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. A place of business that is used for manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles shall be deemed to be used exclusively for those purposes even though snowmobiles or all-purpose vehicles are sold or displayed for sale thereat, even though farm machinery is sold or displayed for sale thereat, or even though repair, accessory, gasoline and oil, storage, parts, service, or paint departments are maintained thereat, or, in any county having a population of less than seventy-five thousand at the last federal census, even though a department in a place of 47933
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business is used to dismantle, salvage, or rebuild motor vehicles 47948
by means of used parts, if such departments are operated for the 47949
purpose of furthering and assisting in the business of 47950
manufacturing, selling, displaying, offering for sale, or dealing 47951
in motor vehicles. Places of business or departments in a place of 47952
business used to dismantle, salvage, or rebuild motor vehicles by 47953
means of using used parts are not considered as being maintained 47954
for the purpose of assisting or furthering the manufacturing, 47955
selling, displaying, and offering for sale or dealing in motor 47956
vehicles. 47957

(X) "Operator" includes any person who drives or operates a 47958
motor vehicle upon the public highways. 47959

(Y) "Chauffeur" means any operator who operates a motor 47960
vehicle, other than a taxicab, as an employee for hire; or any 47961
operator whether or not the owner of a motor vehicle, other than a 47962
taxicab, who operates such vehicle for transporting, for gain, 47963
compensation, or profit, either persons or property owned by 47964
another. Any operator of a motor vehicle who is voluntarily 47965
involved in a ridesharing arrangement is not considered an 47966
employee for hire or operating such vehicle for gain, 47967
compensation, or profit. 47968

(Z) "State" includes the territories and federal districts of 47969
the United States, and the provinces of Canada. 47970

(AA) "Public roads and highways" for vehicles includes all 47971
public thoroughfares, bridges, and culverts. 47972

(BB) "Manufacturer's number" means the manufacturer's 47973
original serial number that is affixed to or imprinted upon the 47974
chassis or other part of the motor vehicle. 47975

(CC) "Motor number" means the manufacturer's original number 47976
that is affixed to or imprinted upon the engine or motor of the 47977
vehicle. 47978

(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 arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this state, or any political subdivisions thereof.

(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying

motor vehicle at a fixed charge for the vehicle in accordance with 48010
the carrier's tariff, lawfully on file with the United States 48011
department of transportation, for the purpose of group travel to a 48012
specified destination or for a particular itinerary, either agreed 48013
upon in advance or modified by the chartered group after having 48014
left the place of origin. 48015

(HH) "International registration plan" means a reciprocal 48016
agreement of member jurisdictions that is endorsed by the American 48017
association of motor vehicle administrators, and that promotes and 48018
encourages the fullest possible use of the highway system by 48019
authorizing apportioned registration of fleets of vehicles and 48020
recognizing registration of vehicles apportioned in member 48021
jurisdictions. 48022

(II) "Restricted plate" means a license plate that has a 48023
restriction of time, geographic area, mileage, or commodity, and 48024
includes license plates issued to farm trucks under division (J) 48025
of section 4503.04 of the Revised Code. 48026

(JJ) "Gross vehicle weight," with regard to any commercial 48027
car, trailer, semitrailer, or bus that is taxed at the rates 48028
established under section 4503.042 or 4503.65 of the Revised Code, 48029
means the unladen weight of the vehicle fully equipped plus the 48030
maximum weight of the load to be carried on the vehicle. 48031

(KK) "Combined gross vehicle weight" with regard to any 48032
combination of a commercial car, trailer, and semitrailer, that is 48033
taxed at the rates established under section 4503.042 or 4503.65 48034
of the Revised Code, means the total unladen weight of the 48035
combination of vehicles fully equipped plus the maximum weight of 48036
the load to be carried on that combination of vehicles. 48037

(LL) "Chauffeured limousine" means a motor vehicle that is 48038
designed to carry nine or fewer passengers and is operated for 48039
hire on an hourly basis pursuant to a prearranged contract for the 48040

transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an agreement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(MM) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(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 48072
motor vehicle dealers and designates as an electronic motor 48073
vehicle dealer under that section. 48074

(TT) "Electric personal assistive mobility device" means a 48075
self-balancing two non-tandem wheeled device that is designed to 48076
transport only one person, has an electric propulsion system of an 48077
average of seven hundred fifty watts, and when ridden on a paved 48078
level surface by an operator who weighs one hundred seventy pounds 48079
has a maximum speed of less than twenty miles per hour. 48080

(UU) "Limited driving privileges" means the privilege to 48081
operate a motor vehicle that a court grants under section 4510.021 48082
of the Revised Code to a person whose driver's or commercial 48083
driver's license or permit or nonresident operating privilege has 48084
been suspended. 48085

(VV) "Utility vehicle" means a self-propelled vehicle 48086
designed with a bed, principally for the purpose of transporting 48087
material or cargo in connection with construction, agricultural, 48088
forestry, grounds maintenance, lawn and garden, materials 48089
handling, or similar activities. "Utility vehicle" includes a 48090
vehicle with a maximum attainable speed of twenty miles per hour 48091
or less that is used exclusively within the boundaries of state 48092
parks by state park employees or volunteers for the operation or 48093
maintenance of state park facilities. 48094

Sec. 4501.06. The taxes, fees, and fines levied, charged, or 48095
referred to in division (O) of section 4503.04, division (E) of 48096
section 4503.042, division (B) of section 4503.07, division (C)(1) 48097
of section 4503.10, division (D) of section 4503.182, division (A) 48098
of section 4503.19, division (D)(2) of section 4507.24, division 48099
(A) of section 4508.06, and sections 4503.40, 4503.42, 4505.11, 48100
4505.111, 4506.08, 4506.09, 4507.23, 4508.05, ~~4923.12~~, and 5502.12 48101
of the Revised Code, and the taxes charged in section 4503.65 that 48102

are distributed in accordance with division (A)(2) of section 48103
4501.044 of the Revised Code unless otherwise designated by law, 48104
shall be deposited in the state treasury to the credit of the 48105
state highway safety fund, which is hereby created, and shall, 48106
after receipt of certifications from the commissioners of the 48107
sinking fund certifying that there are sufficient moneys to the 48108
credit of the highway obligations bond retirement fund created by 48109
section 5528.32 of the Revised Code to meet in full all payments 48110
of interest, principal, and charges for the retirement of highway 48111
obligations issued pursuant to Section 2i of Article VIII, Ohio 48112
Constitution, and sections 5528.30 and 5528.31 of the Revised Code 48113
due and payable during the current calendar year, be used for the 48114
purpose of enforcing and paying the expenses of administering the 48115
law relative to the registration and operation of motor vehicles 48116
on the public roads or highways. Amounts credited to the fund may 48117
also be used to pay the expenses of administering and enforcing 48118
the laws under which such fees were collected. All investment 48119
earnings of the state highway safety fund shall be credited to the 48120
fund. 48121

Sec. 4503.031. (A)(1) If the registrar of motor vehicles 48122
determines that space is available at a deputy registrar's office, 48123
the clerk of the court of common pleas in the county where the 48124
deputy is located shall be given the opportunity to use the space 48125
for the purpose of carrying out the clerk's duties related to the 48126
titling of motor vehicles. Each clerk of the court of common pleas 48127
using space in a deputy registrar's office shall remit to the 48128
deputy a rental fee equal to the percentage of space occupied by 48129
the clerk in the deputy's office multiplied by the rental fee or 48130
mortgage cost paid for the entire deputy registrar's office plus a 48131
pro rata share of all utility costs. 48132

(2) If the clerk of the court of common pleas determines that 48133
space is available at any location at which the clerk has an 48134

office, the clerk shall inform the registrar of that fact and 48135
shall provide the registrar with all pertinent information about 48136
the available space. After giving due consideration to the 48137
locations of deputy registrar offices existing in the county in 48138
which the clerk of the court of common pleas is located, the 48139
registrar shall inform the appropriate deputy registrars, if any, 48140
of the available space of the clerk of the court of common pleas. 48141
Each such deputy registrar shall be given the opportunity to use 48142
the space for the purpose of carrying out the deputy registrar's 48143
duties. Each deputy registrar using space in the office of the 48144
clerk of a court of common pleas shall remit to the clerk a rental 48145
fee equal to the percentage of space occupied by the deputy 48146
registrar in the clerk's office multiplied by the rental fee or 48147
mortgage cost, if any, paid for the entire clerk's office plus a 48148
pro rata share of all utility costs. 48149

If no current deputy registrar elects to utilize the 48150
available space of the clerk of the court of common pleas, the 48151
registrar shall inform all persons who express an interest to the 48152
registrar in becoming a deputy registrar in that county of the 48153
available space of the clerk if the space in fact continues to be 48154
available. 48155

(3) A clerk of the court of common pleas and a deputy 48156
registrar may elect to occupy a location at which neither the 48157
clerk nor the deputy currently is an occupant. Any such 48158
arrangement is subject to the approval of the registrar, who shall 48159
give due consideration to all issues and aspects of the proposed 48160
arrangement, including security at the location and service to the 48161
public. 48162

(B) ~~The~~ When possible, as determined by the director of 48163
public safety and the registrar and the superintendent of the 48164
state highway patrol shall cooperate to the fullest extent 48165
possible in locating, a driver's license examination station shall 48166

be located at or near a deputy registrar's office. For each 48167
driver's license examination station located at a deputy 48168
registrar's office, the ~~superintendent of the state highway patrol~~ 48169
director shall remit to the deputy a rental fee equal to the 48170
percentage of space occupied for the driver's license examination 48171
station multiplied by the rental fee or mortgage cost paid for the 48172
entire deputy registrar's office plus a pro rata share of all 48173
utility costs. 48174

(C) During the regular business hours of deputy registrars, 48175
the registrar shall keep the central office open and sufficiently 48176
staffed to be able to respond to the technical needs of the 48177
deputies. 48178

(D) The registrar shall adopt rules to promote public 48179
information regarding motor vehicle registration. The rules shall 48180
include: 48181

(1) The operation by the registrar, during the regular 48182
business hours of deputy registrars, of a toll-free telephone 48183
number to give information and receive complaints; 48184

(2) The listing by the registrar, of each deputy registrar, 48185
together with the toll-free telephone number required under 48186
division (D)(1) of this section, in the local business and 48187
advertising telephone directory for the area served by the deputy, 48188
under the heading of the bureau of motor vehicles. 48189

Sec. 4503.061. (A) All manufactured and mobile homes shall be 48190
listed on either the real property tax list or the manufactured 48191
home tax list of the county in which the home has situs. Each 48192
owner shall follow the procedures in this section to identify the 48193
home to the county auditor of the county containing the taxing 48194
district in which the home has situs so that the auditor may place 48195
the home on the appropriate tax list. 48196

(B) When a manufactured or mobile home first acquires situs 48197
in this state and is subject to real property taxation pursuant to 48198
division (B)(1) or (2) of section 4503.06 of the Revised Code, the 48199
owner shall present to the auditor of the county containing the 48200
taxing district in which the home has its situs the certificate of 48201
title for the home, together with proof that all taxes due have 48202
been paid and proof that a relocation notice was obtained for the 48203
home if required under this section. Upon receiving the 48204
certificate of title and the required proofs, the auditor shall 48205
place the home on the real property tax list and proceed to treat 48206
the home as other properties on that list. After the auditor has 48207
placed the home on the tax list of real and public utility 48208
property, the auditor shall deliver the certificate of title to 48209
the clerk of the court of common pleas that issued it pursuant to 48210
section 4505.11 of the Revised Code, and the clerk shall 48211
inactivate the certificate of title. 48212

(C)(1) When a manufactured or mobile home subject to a 48213
manufactured home tax is relocated to or first acquires situs in 48214
any county that has adopted a permanent manufactured home 48215
registration system, as provided in division (F) of this section, 48216
the owner, within thirty days after the home is relocated or first 48217
acquires situs under section 4503.06 of the Revised Code, shall 48218
register the home with the county auditor of the county containing 48219
the taxing district in which the home has its situs. For the first 48220
registration in each county of situs, the owner or vendee in 48221
possession shall present to the county auditor an Ohio certificate 48222
of title, certified copy of the certificate of title, or 48223
memorandum certificate of title as such are required by law, and 48224
proof, as required by the county auditor, that the home, if it has 48225
previously been occupied and is being relocated, has been 48226
previously registered, that all taxes due and required to be paid 48227
under division (H)(1) of this section before a relocation notice 48228
may be issued have been paid, and that a relocation notice was 48229

obtained for the home if required by division (H) of this section. 48230
If the owner or vendee does not possess the Ohio certificate of 48231
title, certified copy of the certificate of title, or memorandum 48232
certificate of title at the time the owner or vendee first 48233
registers the home in a county, the county auditor shall register 48234
the home without presentation of the document, but the owner or 48235
vendee shall present the certificate of title, certified copy of 48236
the certificate of title, or memorandum certificate of title to 48237
the county auditor within fourteen days after the owner or vendee 48238
obtains possession of the document. 48239

(2) When a manufactured or mobile home is registered for the 48240
first time in a county and when the total tax due has been paid as 48241
required by division (F) of section 4503.06 of the Revised Code or 48242
divisions (E) and (H) of this section, the county treasurer shall 48243
note by writing or by a stamp on the certificate of title, 48244
certified copy of certificate of title, or memorandum certificate 48245
of title that the home has been registered and that the taxes due, 48246
if any, have been paid for the preceding five years and for the 48247
current year. The treasurer shall then issue a certificate 48248
evidencing registration and a decal to be displayed on the street 48249
side of the home. The certificate is valid in any county in this 48250
state during the year for which it is issued. 48251

(3) For each year thereafter, the county treasurer shall 48252
issue a tax bill stating the amount of tax due under section 48253
4503.06 of the Revised Code, as provided in division (D)(6) of 48254
that section. When the total tax due has been paid as required by 48255
division (F) of that section, the county treasurer shall issue a 48256
certificate evidencing registration that shall be valid in any 48257
county in this state during the year for which the certificate is 48258
issued. 48259

(4) The permanent decal issued under this division is valid 48260
during the period of ownership, except that when a manufactured 48261

home is relocated in another county the owner shall apply for a 48262
new registration as required by this section and section 4503.06 48263
of the Revised Code. 48264

(D)(1) All owners of manufactured or mobile homes subject to 48265
the manufactured home tax being relocated to or having situs in a 48266
county that has not adopted a permanent registration system, as 48267
provided in division (F) of this section, shall register the home 48268
within thirty days after the home is relocated or first acquires 48269
situs under section 4503.06 of the Revised Code and thereafter 48270
shall annually register the home with the county auditor of the 48271
county containing the taxing district in which the home has its 48272
situs. 48273

(2) Upon the annual registration, the county treasurer shall 48274
issue a tax bill stating the amount of annual manufactured home 48275
tax due under section 4503.06 of the Revised Code, as provided in 48276
division (D)(6) of that section. When a manufactured or mobile 48277
home is registered and when the tax for the current one-half year 48278
has been paid as required by division (F) of that section, the 48279
county treasurer shall issue a certificate evidencing registration 48280
and a decal. The certificate and decal are valid in any county in 48281
this state during the year for which they are issued. The decal 48282
shall be displayed on the street side of the home. 48283

(3) For the first annual registration in each county of 48284
situs, the county auditor shall require the owner or vendee to 48285
present an Ohio certificate of title, certified copy of the 48286
certificate of title, or memorandum certificate of title as such 48287
are required by law, and proof, as required by the county auditor, 48288
that the manufactured or mobile home has been previously 48289
registered, if such registration was required, that all taxes due 48290
and required to be paid under division (H)(1) of this section 48291
before a relocation notice may be issued have been paid, and that 48292
a relocation notice was obtained for the home if required by 48293

division (H) of this section. If the owner or vendee does not 48294
possess the Ohio certificate of title, certified copy of the 48295
certificate of title, or memorandum certificate of title at the 48296
time the owner or vendee first registers the home in a county, the 48297
county auditor shall register the home without presentation of the 48298
document, but the owner or vendee shall present the certificate of 48299
title, certified copy of the certificate of title, or memorandum 48300
certificate of title to the county auditor within fourteen days 48301
after the owner or vendee obtains possession of the document. When 48302
the county treasurer receives the tax payment, the county 48303
treasurer shall note by writing or by a stamp on the certificate 48304
of title, certified copy of the certificate of title, or 48305
memorandum certificate of title that the home has been registered 48306
for the current year and that the manufactured home taxes due, if 48307
any, have been paid for the preceding five years and for the 48308
current year. 48309

(4) For subsequent annual registrations, the auditor may 48310
require the owner or vendee in possession to present an Ohio 48311
certificate of title, certified copy of the certificate of title, 48312
or memorandum certificate of title to the county treasurer upon 48313
payment of the manufactured home tax that is due. 48314

(E)(1) Upon the application to transfer ownership of a 48315
manufactured or mobile home for which manufactured home taxes are 48316
paid pursuant to division (C) of section 4503.06 of the Revised 48317
Code the clerk of the court of common pleas shall not issue any 48318
certificate of title that does not contain or have attached both 48319
of the following: 48320

(a) An endorsement of the county treasurer stating that the 48321
home has been registered for each year of ownership and that all 48322
manufactured home taxes imposed pursuant to section 4503.06 of the 48323
Revised Code have been paid or that no tax is due; 48324

(b) An endorsement of the county auditor that the 48325

manufactured home transfer tax imposed pursuant to section 322.06 48326
of the Revised Code and any fees imposed under division (G) of 48327
section 319.54 of the Revised Code have been paid. 48328

(2) If all the taxes have not been paid, the clerk shall 48329
notify the vendee to contact the county treasurer of the county 48330
containing the taxing district in which the home has its situs at 48331
the time of the proposed transfer. The county treasurer shall then 48332
collect all the taxes that are due for the year of the transfer 48333
and all previous years not exceeding a total of five years. The 48334
county treasurer shall distribute that part of the collection owed 48335
to the county treasurer of other counties if the home had its 48336
situs in another county during a particular year when the unpaid 48337
tax became due and payable. The burden to prove the situs of the 48338
home in the years that the taxes were not paid is on the 48339
transferor of the home. Upon payment of the taxes, the county 48340
auditor shall remove all remaining taxes from the manufactured 48341
home tax list and the delinquent manufactured home tax list, and 48342
the county treasurer shall release all liens for such taxes. The 48343
clerk of courts shall issue a certificate of title, free and clear 48344
of all liens for manufactured home taxes, to the transferee of the 48345
home. 48346

(3) Once the transfer is complete and the certificate of 48347
title has been issued, the transferee shall register the 48348
manufactured or mobile home pursuant to division (C) or (D) of 48349
this section with the county auditor of the county containing the 48350
taxing district in which the home remains after the transfer or, 48351
if the home is relocated to another county, with the county 48352
auditor of the county to which the home is relocated. The 48353
transferee need not pay the annual tax for the year of acquisition 48354
if the original owner has already paid the annual tax for that 48355
year. 48356

(F) The county auditor may adopt a permanent registration 48357

system and issue a permanent decal with the first registration as 48358
prescribed by the tax commissioner. 48359

(G) When any manufactured or mobile home required to be 48360
registered by this section is not registered, the county auditor 48361
shall impose a penalty of one hundred dollars upon the owner and 48362
deposit the amount to the credit of the county real estate 48363
assessment fund to be used to pay the costs of administering this 48364
section and section 4503.06 of the Revised Code. If unpaid, the 48365
penalty shall constitute a lien on the home and shall be added by 48366
the county auditor to the manufactured home tax list for 48367
collection. 48368

(H)(1) Except as otherwise provided in this division, before 48369
moving a manufactured or mobile home on public roads from one 48370
address within this state to another address within or outside 48371
this state, the owner of the home shall obtain a relocation 48372
notice, as provided by this section, from the auditor of the 48373
county in which the home is located if the home is currently 48374
subject to taxation pursuant to section 4503.06 of the Revised 48375
Code. The auditor shall charge five dollars for the notice, and 48376
deposit the amount to the credit of the county real estate 48377
assessment fund to be used to pay the costs of administering this 48378
section and section 4503.06 of the Revised Code. The auditor shall 48379
not issue a relocation notice unless all taxes owed on the home 48380
under section 4503.06 of the Revised Code that were first charged 48381
to the home during the period of ownership of the owner seeking 48382
the relocation notice have been paid. If the home is being moved 48383
by a new owner of the home or by a party taking repossession of 48384
the home, the auditor shall not issue a relocation notice unless 48385
all of the taxes due for the preceding five years and for the 48386
current year have been paid. A relocation notice issued by a 48387
county auditor is valid until the last day of December of the year 48388
in which it was issued. 48389

If the home is being moved by a sheriff, police officer, constable, bailiff, or manufactured home park operator, as defined in section ~~3733.01~~ 4781.01 of the Revised Code, or any agent of any of these persons, for purposes of removal from a manufactured home park and storage, sale, or destruction under section 1923.14 of the Revised Code, the auditor shall issue a relocation notice without requiring payment of any taxes owed on the home under section 4503.06 of the Revised Code.

(2) If a manufactured or mobile home is not yet subject to taxation under section 4503.06 of the Revised Code, the owner of the home shall obtain a relocation notice from the dealer of the home. Within thirty days after the manufactured or mobile home is purchased, the dealer of the home shall provide the auditor of the county in which the home is to be located written notice of the name of the purchaser of the home, the registration number or vehicle identification number of the home, and the address or location to which the home is to be moved. The county auditor shall provide to each manufactured and mobile home dealer, without charge, a supply of relocation notices to be distributed to purchasers pursuant to this section.

(3) The notice shall be in the form of a one-foot square yellow sign with the words "manufactured home relocation notice" printed prominently on it. The name of the owner of the home, the home's registration number or vehicle identification number, the county and the address or location to which the home is being moved, and the county in which the notice is issued shall also be entered on the notice.

(4) The relocation notice must be attached to the rear of the home when the home is being moved on a public road. Except as provided in divisions (H)(1) and (5) of this section, no person shall drive a motor vehicle moving a manufactured or mobile home on a public road from one address to another address within this

state unless a relocation notice is attached to the rear of the 48422
home. 48423

(5) If the county auditor determines that a manufactured or 48424
mobile home has been moved without a relocation notice as required 48425
under this division, the auditor shall impose a penalty of one 48426
hundred dollars upon the owner of the home and upon the person who 48427
moved the home and deposit the amount to the credit of the county 48428
real estate assessment fund to pay the costs of administering this 48429
section and section 4503.06 of the Revised Code. If the home was 48430
relocated from one county in this state to another county in this 48431
state and the county auditor of the county to which the home was 48432
relocated imposes the penalty, that county auditor, upon 48433
collection of the penalty, shall cause an amount equal to the 48434
penalty to be transmitted from the county real estate assessment 48435
fund to the county auditor of the county from which the home was 48436
relocated, who shall deposit the amount to the credit of the 48437
county real estate assessment fund. If the penalty on the owner is 48438
unpaid, the penalty shall constitute a lien on the home and the 48439
auditor shall add the penalty to the manufactured home tax list 48440
for collection. If the county auditor determines that a dealer 48441
that has sold a manufactured or mobile home has failed to timely 48442
provide the information required under this division, the auditor 48443
shall impose a penalty upon the dealer in the amount of one 48444
hundred dollars. The penalty shall be credited to the county real 48445
estate assessment fund and used to pay the costs of administering 48446
this section and section 4503.06 of the Revised Code. 48447

(I) Whoever violates division (H)(4) of this section is 48448
guilty of a minor misdemeanor. 48449

Sec. 4503.062. (A) Every operator of a manufactured home 48450
court, or manufactured home park, as defined in section ~~3733.01~~ 48451
4781.01 of the Revised Code, or when there is no operator, every 48452

owner of property used for such purposes on which three or more
manufactured or mobile homes are located, shall keep a register of
all manufactured and mobile homes that make use of the court,
park, or property. The register shall contain all of the
following:

(1) The name of the owner and all inhabitants of each home;

(2) The ages of all inhabitants of each home;

(3) The permanent and temporary post office addresses of all
inhabitants of each home;

(4) The license number of each home;

(5) The state issuing each such license;

(6) The date of arrival and of departure of each home;

(7) The make and model of each home, if known and if either
of the following applies:

(a) The home enters the court, park, or property on or after
January 1, 2003.

(b) Ownership of the home in the court or park, or on the
property, is transferred on or after January 1, 2003.

(B) The register shall be open to inspection by the county
auditor, the county treasurer, agents of the auditor or treasurer,
and all law enforcement agencies at all times.

(C) Any person who fails to comply with this section shall be
fined not less than twenty-five nor more than one hundred dollars.

Sec. 4503.49. (A) As used in this section, "ambulance,"
"ambulette," "emergency medical service organization,"
"nonemergency medical service organization," and "nontransport
vehicle" have the same meanings as in section 4766.01 of the
Revised Code.

(B) Each private emergency medical service organization and 48481
each private nonemergency medical service organization shall apply 48482
to the registrar of motor vehicles for the registration of any 48483
ambulance, ambulette, or nontransport vehicle it owns or leases. 48484
The application shall be accompanied by a copy of the certificate 48485
of licensure issued to the organization by the ~~Ohio~~ state board of 48486
emergency medical, fire, and transportation board services and the 48487
following fees: 48488

(1) The regular license tax as prescribed under section 48489
4503.04 of the Revised Code; 48490

(2) Any local license tax levied under Chapter 4504. of the 48491
Revised Code; 48492

(3) An additional fee of seven dollars and fifty cents. The 48493
additional fee shall be for the purpose of compensating the bureau 48494
of motor vehicles for additional services required to be performed 48495
under this section and shall be transmitted by the registrar to 48496
the treasurer of state for deposit in the state bureau of motor 48497
vehicles fund created by section 4501.25 of the Revised Code. 48498

(C) On receipt of a complete application, the registrar shall 48499
issue to the applicant the appropriate certificate of registration 48500
for the vehicle and do one of the following: 48501

(1) Issue a set of license plates with a validation sticker 48502
and a set of stickers to be attached to the plates as an 48503
identification of the vehicle's classification as an ambulance, 48504
ambulette, or nontransport vehicle; 48505

(2) Issue a validation sticker alone when so required by 48506
section 4503.191 of the Revised Code. 48507

Sec. 4503.81. As used in the bus taxation proration and 48508
reciprocity agreement authorized by section 4503.80 of the Revised 48509
Code, with reference to Ohio, "administrator" means the registrar 48510

of motor vehicles. 48511

The registrar may make such exemptions from the coverage of 48512
the agreement as may be appropriate and may make such changes in 48513
methods for the reporting of any information required to be 48514
furnished to this state pursuant to the agreement as, in ~~his~~ the 48515
registrar's judgment, are suitable; provided that any such 48516
exemptions or changes shall not be contrary to the purposes set 48517
forth in article I of the agreement and shall be made in order to 48518
permit the continuance of uniformity of practice among the 48519
contracting states with respect to buses. Any such exemption or 48520
change shall be made by rule adopted under Chapter 119. of the 48521
Revised Code. Unless otherwise provided in any statute withdrawing 48522
this state from participation in the agreement, the governor shall 48523
be the officer to give notice of withdrawal therefrom. 48524

The fees referred to in article IV (a) of the agreement shall 48525
include the fees provided in section 4503.04 of the Revised Code 48526
and the annual tax provided in section ~~4921.18~~ 4921.19 of the 48527
Revised Code. As to the state of Ohio, article V (d) shall mean 48528
that all fleets not subject to this compact shall continue to 48529
enjoy that reciprocity and those privileges extended by virtue of 48530
other provisions of the Revised Code. 48531

Nothing contained herein shall be construed so as to permit a 48532
fleet which is prorating under the laws of another state to avoid 48533
proration under this compact. 48534

The registrar of motor vehicles shall collect a fee of two 48535
dollars per bus for every bus registered under the provisions of 48536
article IV (a) for administration of the agreement, in addition to 48537
the fees provided in article IV (a). 48538

The registrar of motor vehicles shall assess the operator of 48539
buses registered under the provisions of article IV (a) the actual 48540
cost of ~~his~~ the registrar's auditing the accuracy of the fees paid 48541

by the operator in accordance with article IV (a). 48542

The registrar of motor vehicles may renounce the 48543
participation of this state in the bus taxation proration and 48544
reciprocity agreement under article VI of section 4503.80 of the 48545
Revised Code, ~~if he finds~~ after finding that further participation 48546
in the compact is not in the best interests of the state. The 48547
registrar shall set forth ~~his~~ the registrar's reasons in writing 48548
and serve notice of intention to renounce the compact upon the 48549
owner of each registered fleet. ~~He~~ The registrar shall then 48550
certify the renunciation to the governor. 48551

Sec. 4506.01. As used in this chapter: 48552

(A) "Alcohol concentration" means the concentration of 48553
alcohol in a person's blood, breath, or urine. When expressed as a 48554
percentage, it means grams of alcohol per the following: 48555

(1) One hundred milliliters of whole blood, blood serum, or 48556
blood plasma; 48557

(2) Two hundred ten liters of breath; 48558

(3) One hundred milliliters of urine. 48559

(B) "Commercial driver's license" means a license issued in 48560
accordance with this chapter that authorizes an individual to 48561
drive a commercial motor vehicle. 48562

(C) "Commercial driver's license information system" means 48563
the information system established pursuant to the requirements of 48564
the "Commercial Motor Vehicle Safety Act of 1986," 100 Stat. 48565
3207-171, 49 U.S.C.A. App. 2701. 48566

(D) Except when used in section 4506.25 of the Revised Code, 48567
"commercial motor vehicle" means any motor vehicle designed or 48568
used to transport persons or property that meets any of the 48569
following qualifications: 48570

(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;

(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;

(3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;

(4) Any school bus with a gross vehicle weight rating of less than twenty-six thousand one pounds that is designed to transport fewer than sixteen passengers including the driver;

(5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;

(6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the federal motor carrier safety administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.

(E) "Controlled substance" means all of the following:

(1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;

(2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;

(3) Any drug of abuse.

(F) "Conviction" means an unvacated adjudication of guilt or

a determination that a person has violated or failed to comply 48601
with the law in a court of original jurisdiction or an authorized 48602
administrative tribunal, an unvacated forfeiture of bail or 48603
collateral deposited to secure the person's appearance in court, a 48604
plea of guilty or nolo contendere accepted by the court, the 48605
payment of a fine or court cost, or violation of a condition of 48606
release without bail, regardless of whether or not the penalty is 48607
rebated, suspended, or probated. 48608

(G) "Disqualification" means any of the following: 48609

(1) The suspension, revocation, or cancellation of a person's 48610
privileges to operate a commercial motor vehicle; 48611

(2) Any withdrawal of a person's privileges to operate a 48612
commercial motor vehicle as the result of a violation of state or 48613
local law relating to motor vehicle traffic control other than 48614
parking, vehicle weight, or vehicle defect violations; 48615

(3) A determination by the federal motor carrier safety 48616
administration that a person is not qualified to operate a 48617
commercial motor vehicle under 49 C.F.R. 391. 48618

(H) "Downgrade" means any of the following, as applicable: 48619

(1) A change in the commercial driver's license holder's 48620
self-certified status as described in division (A)(2) of section 48621
4506.10 of the Revised Code; 48622

(2) A change to a lesser class of vehicle; 48623

(3) Removal of commercial driver's license privileges from 48624
the individual's driver's license. 48625

(I) "Drive" means to drive, operate, or be in physical 48626
control of a motor vehicle. 48627

(J) "Driver" means any person who drives, operates, or is in 48628
physical control of a commercial motor vehicle or is required to 48629
have a commercial driver's license. 48630

(K) "Driver's license" means a license issued by the bureau of motor vehicles that authorizes an individual to drive.

(L) "Drug of abuse" means any controlled substance, dangerous drug as defined in section 4729.01 of the Revised Code, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.

(M) "Electronic device" includes a cellular telephone, a personal digital assistant, a pager, a computer, and any other device used to input, write, send, receive, or read text.

(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 48662
division and is not used in the operations of a ~~motor~~ 48663
~~transportation company or private~~ motor carrier, as defined in 48664
section 4923.01 of the Revised Code. 48665

(R) "Fatality" means the death of a person as the result of a 48666
motor vehicle accident occurring not more than three hundred 48667
sixty-five days prior to the date of death. 48668

(S) "Felony" means any offense under federal or state law 48669
that is punishable by death or specifically classified as a felony 48670
under the law of this state, regardless of the penalty that may be 48671
imposed. 48672

(T) "Foreign jurisdiction" means any jurisdiction other than 48673
a state. 48674

(U) "Gross vehicle weight rating" means the value specified 48675
by the manufacturer as the maximum loaded weight of a single or a 48676
combination vehicle. The gross vehicle weight rating of a 48677
combination vehicle is the gross vehicle weight rating of the 48678
power unit plus the gross vehicle weight rating of each towed 48679
unit. 48680

(V) "Hazardous materials" means any material that has been 48681
designated as hazardous under 49 U.S.C. 5103 and is required to be 48682
placarded under subpart F of 49 C.F.R. part 172 or any quantity of 48683
a material listed as a select agent or toxin in 42 C.F.R. part 73, 48684
as amended. 48685

(W) "Imminent hazard" means the existence of a condition that 48686
presents a substantial likelihood that death, serious illness, 48687
severe personal injury, or a substantial endangerment to health, 48688
property, or the environment may occur before the reasonably 48689
foreseeable completion date of a formal proceeding begun to lessen 48690
the risk of that death, illness, injury, or endangerment. 48691

(X) "Medical variance" means one of the following received by 48692

a driver from the federal motor carrier safety administration that 48693
allows the driver to be issued a medical certificate: 48694

(1) An exemption letter permitting operation of a commercial 48695
motor vehicle under 49 C.F.R. 381, subpart C or 49 C.F.R. 391.64; 48696

(2) A skill performance evaluation certificate permitting 48697
operation of a commercial motor vehicle pursuant to 49 C.F.R. 48698
391.49. 48699

(Y) "Motor vehicle" means a vehicle, machine, tractor, 48700
trailer, or semitrailer propelled or drawn by mechanical power 48701
used on highways, except that such term does not include a 48702
vehicle, machine, tractor, trailer, or semitrailer operated 48703
exclusively on a rail. 48704

(Z) "Out-of-service order" means a declaration by an 48705
authorized enforcement officer of a federal, state, local, 48706
Canadian, or Mexican jurisdiction declaring that a driver, 48707
commercial motor vehicle, or commercial motor carrier operation is 48708
out of service as defined in 49 C.F.R. 390.5. 48709

(AA) "Peace officer" has the same meaning as in section 48710
2935.01 of the Revised Code. 48711

(BB) "Portable tank" means a liquid or gaseous packaging 48712
designed primarily to be loaded onto or temporarily attached to a 48713
vehicle and equipped with skids, mountings, or accessories to 48714
facilitate handling of the tank by mechanical means. 48715

(CC) "Public safety vehicle" has the same meaning as in 48716
divisions (E)(1) and (3) of section 4511.01 of the Revised Code. 48717

(DD) "Recreational vehicle" includes every vehicle that is 48718
defined as a recreational vehicle in section 4501.01 of the 48719
Revised Code and is used exclusively for purposes other than 48720
engaging in business for profit. 48721

(EE) "Residence" means any person's residence determined in 48722

accordance with standards prescribed in rules adopted by the registrar. 48723
48724

(FF) "School bus" has the same meaning as in section 4511.01 of the Revised Code. 48725
48726

(GG) "Serious traffic violation" means any of the following: 48727

(1) A conviction arising from a single charge of operating a commercial motor vehicle in violation of any provision of section 4506.03 of the Revised Code; 48728
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48730

(2) A violation while operating a commercial motor vehicle of 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; 48731
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(3) A conviction arising from the operation of any motor vehicle that involves any of the following: 48736
48737

(a) A single charge of any speed in excess of the posted speed limit by fifteen miles per hour or more; 48738
48739

(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; 48740
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(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; 48743
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(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 48747
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vehicle group being operated or for the passengers or type of 48753
cargo being transported; 48754

(e) Violation of section 4506.03 of the Revised Code or a 48755
substantially similar municipal ordinance or county or township 48756
resolution, or of any similar law of another state or political 48757
subdivision of another state, that involves the operation of a 48758
commercial motor vehicle without a valid commercial driver's 48759
license being in the person's possession; 48760

(f) Violation of section 4511.33 or 4511.34 of the Revised 48761
Code, or any municipal ordinance or county or township resolution 48762
substantially similar to either of those sections, or any 48763
substantially similar law of another state or political 48764
subdivision of another state; 48765

(g) Violation of any other law of this state or an ordinance 48766
or resolution relating to traffic control, other than a parking 48767
violation, that is determined to be a serious traffic violation by 48768
the United States secretary of transportation and the director 48769
designates as such by rule. 48770

(HH) "State" means a state of the United States and includes 48771
the District of Columbia. 48772

(II) "Tank vehicle" means any commercial motor vehicle that 48773
is designed to transport any liquid and has a maximum capacity 48774
greater than one hundred nineteen gallons or is designed to 48775
transport gaseous materials and has a water capacity greater than 48776
one thousand pounds within a tank that is either permanently or 48777
temporarily attached to the vehicle or its chassis. "Tank vehicle" 48778
does not include any of the following: 48779

(1) Any portable tank having a rated capacity of less than 48780
one thousand gallons; 48781

(2) Tanks used exclusively as a fuel tank for the motor 48782
vehicle to which it is attached; 48783

(3) An empty storage container tank that is not designed for transportation and that is readily distinguishable from a transportation tank;

(4) Ready-mix concrete mixers.

(JJ) "Tester" means a person or entity acting pursuant to a valid agreement entered into pursuant to division (B) of section 4506.09 of the Revised Code.

(KK) "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. Texting includes 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, 48814
endorsements, or self-certified status as described in division 48815
(A)(2) of section 4506.10 of the Revised Code, that expands the 48816
ability of a current commercial driver's license holder to operate 48817
commercial motor vehicles under this chapter; 48818

(OO) "Vehicle" has the same meaning as in section 4511.01 of 48819
the Revised Code. 48820

Sec. 4506.03. (A) Except as provided in divisions (B) and (C) 48821
of this section, the following shall apply: 48822

(1) No person shall drive a commercial motor vehicle on a 48823
highway in this state unless the person holds, and has in the 48824
person's possession, a valid commercial driver's license with 48825
proper endorsements for the motor vehicle being driven, issued by 48826
the registrar of motor vehicles, a valid examiner's commercial 48827
driving permit issued under section 4506.13 of the Revised Code, a 48828
valid restricted commercial driver's license and waiver for 48829
farm-related service industries issued under section 4506.24 of 48830
the Revised Code, or a valid commercial driver's license temporary 48831
instruction permit issued by the registrar and is accompanied by 48832
an authorized state driver's license examiner or tester or a 48833
person who has been issued and has in the person's immediate 48834
possession a current, valid commercial driver's license with 48835
proper endorsements for the motor vehicle being driven. 48836

(2) No person shall be issued a commercial driver's license 48837
until the person surrenders to the registrar of motor vehicles all 48838
valid licenses issued to the person by another jurisdiction 48839
recognized by this state. The registrar shall report the surrender 48840
of a license to the issuing authority, together with information 48841
that a license is now issued in this state. The registrar shall 48842
destroy any such license that is not returned to the issuing 48843
authority. 48844

(3) No person who has been a resident of this state for 48845
thirty days or longer shall drive a commercial motor vehicle under 48846
the authority of a commercial driver's license issued by another 48847
jurisdiction. 48848

(B) Nothing in division (A) of this section applies to any 48849
qualified person when engaged in the operation of any of the 48850
following: 48851

(1) A farm truck; 48852

(2) Fire equipment for a fire department, volunteer or 48853
nonvolunteer fire company, fire district, or joint fire district; 48854

(3) A public safety vehicle used to provide transportation or 48855
emergency medical service for ill or injured persons; 48856

(4) A recreational vehicle; 48857

(5) A commercial motor vehicle within the boundaries of an 48858
eligible unit of local government, if the person is employed by 48859
the eligible unit of local government and is operating the 48860
commercial motor vehicle for the purpose of removing snow or ice 48861
from a roadway by plowing, sanding, or salting, but only if either 48862
the employee who holds a commercial driver's license issued under 48863
this chapter and ordinarily operates a commercial motor vehicle 48864
for these purposes is unable to operate the vehicle, or the 48865
employing eligible unit of local government determines that a snow 48866
or ice emergency exists that requires additional assistance; 48867

(6) A vehicle operated for military purposes by any member or 48868
uniformed employee of the armed forces of the United States or 48869
their reserve components, including the Ohio national guard. This 48870
exception does not apply to United States reserve technicians. 48871

(7) A commercial motor vehicle that is operated for 48872
nonbusiness purposes. "Operated for nonbusiness purposes" means 48873
that the commercial motor vehicle is not used in commerce as 48874

"commerce" is defined in 49 C.F.R. 383.5, as amended, and is not 48875
regulated by the public utilities commission pursuant to Chapter 48876
~~4919~~ 4905., 4921., or 4923. of the Revised Code. 48877

(8) A motor vehicle that is designed primarily for the 48878
transportation of goods and not persons, while that motor vehicle 48879
is being used for the occasional transportation of personal 48880
property by individuals not for compensation and not in the 48881
furtherance of a commercial enterprise; 48882

(9) A police SWAT team vehicle; 48883

(10) A police vehicle used to transport prisoners. 48884

(C) Nothing contained in division (B)(5) of this section 48885
shall be construed as preempting or superseding any law, rule, or 48886
regulation of this state concerning the safe operation of 48887
commercial motor vehicles. 48888

(D) Whoever violates this section is guilty of a misdemeanor 48889
of the first degree. 48890

Sec. 4506.22. (A) The director of public safety and the 48891
registrar of motor vehicles, subject to approval by the director, 48892
may, in accordance with Chapter 119. of the Revised Code, adopt 48893
any rules necessary to carry out this chapter. 48894

(B) The department of public safety may do all of the 48895
following: 48896

(1) Enter into or make any agreements, arrangements, or 48897
declarations necessary to carry out this chapter; 48898

(2) Charge a fee for all publications that is equal to the 48899
cost of printing the publications. 48900

(C) Nothing in this chapter shall be construed to restrict 48901
the authority of the public utilities commission specified in 48902
Chapters 4905., 4921., and 4923. of the Revised Code regarding 48903

safety rules applicable to motor carriers. 48904

Sec. 4506.25. (A) As used in this section, "commercial motor 48905
vehicle" means any self-propelled or towed vehicle used on public 48906
highways in intrastate or interstate commerce to transport 48907
passengers or property that meets any of the following 48908
specifications: 48909

(1) The vehicle has a gross vehicle weight rating or gross 48910
combination weight rating of ten thousand one pounds or more. 48911

(2) The vehicle is designed to transport sixteen or more 48912
passengers, including the driver. 48913

(3) The vehicle is used in the transportation of hazardous 48914
materials in a quantity requiring placarding under the regulations 48915
issued by the United States secretary of transportation under the 48916
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 48917
U.S.C.A. 1801, as amended. 48918

(B) The registrar of motor vehicles shall disqualify any 48919
person from operating a commercial motor vehicle who receives a 48920
notice of a conviction for violation of an out-of-service order 48921
issued under rules of the public utilities commission adopted 48922
pursuant to ~~section 4919.79, 4921.04~~ Chapter 4905., 4921., or 48923
~~4923.20~~ 4923. of the Revised Code, or a conviction for a violation 48924
of the same or similar laws of another state or jurisdiction 48925
applicable to vehicles in regulated commerce. 48926

Sec. 4507.01. (A) As used in this chapter, "motor vehicle," 48927
"motorized bicycle," "state," "owner," "operator," "chauffeur," 48928
and "highways" have the same meanings as in section 4501.01 of the 48929
Revised Code. 48930

"Driver's license" means a class D license issued to any 48931
person to operate a motor vehicle or motor-driven cycle, other 48932
than a commercial motor vehicle, and includes "probationary 48933

license," "restricted license," and any operator's or chauffeur's license issued before January 1, 1990. 48934
48935

"Probationary license" means the license issued to any person 48936
between sixteen and eighteen years of age to operate a motor 48937
vehicle. 48938

"Restricted license" means the license issued to any person 48939
to operate a motor vehicle subject to conditions or restrictions 48940
imposed by the registrar of motor vehicles. 48941

"Commercial driver's license" means the license issued to a 48942
person under Chapter 4506. of the Revised Code to operate a 48943
commercial motor vehicle. 48944

"Commercial motor vehicle" has the same meaning as in section 48945
4506.01 of the Revised Code. 48946

"Motorized bicycle license" means the license issued under 48947
section 4511.521 of the Revised Code to any person to operate a 48948
motorized bicycle including a "probationary motorized bicycle 48949
license." 48950

"Probationary motorized bicycle license" means the license 48951
issued under section 4511.521 of the Revised Code to any person 48952
between fourteen and sixteen years of age to operate a motorized 48953
bicycle. 48954

"Identification card" means a card issued under sections 48955
4507.50 and 4507.51 of the Revised Code. 48956

"Resident" means a person who, in accordance with standards 48957
prescribed in rules adopted by the registrar, resides in this 48958
state on a permanent basis. 48959

"Temporary resident" means a person who, in accordance with 48960
standards prescribed in rules adopted by the registrar, resides in 48961
this state on a temporary basis. 48962

(B) In the administration of this chapter and Chapter 4506. 48963

of the Revised Code, the registrar has the same authority as is 48964
conferred on the registrar by section 4501.02 of the Revised Code. 48965
Any act of an authorized deputy registrar of motor vehicles under 48966
direction of the registrar is deemed the act of the registrar. 48967

To carry out this chapter, the registrar shall appoint such 48968
deputy registrars in each county as are necessary. 48969

The registrar also shall provide at each place where an 48970
application for a driver's or commercial driver's license or 48971
identification card may be made the necessary equipment to take a 48972
color photograph of the applicant for such license or card as 48973
required under section 4506.11 or 4507.06 of the Revised Code, and 48974
to conduct the vision screenings required by section 4507.12 of 48975
the Revised Code, and equipment to laminate licenses, motorized 48976
bicycle licenses, and identification cards as required by sections 48977
4507.13, 4507.52, and 4511.521 of the Revised Code. 48978

The registrar shall assign one or more deputy registrars to 48979
any driver's license examining station operated under the 48980
supervision of the ~~state highway patrol~~ director of public safety, 48981
whenever the registrar considers such assignment possible. Space 48982
shall be provided in the driver's license examining station for 48983
any such deputy registrar so assigned. The deputy registrars shall 48984
not exercise the powers conferred by such sections upon the 48985
registrar, unless they are specifically authorized to exercise 48986
such powers by such sections. 48987

(C) No agent for any insurance company, writing automobile 48988
insurance, shall be appointed deputy registrar, and any such 48989
appointment is void. No deputy registrar shall in any manner 48990
solicit any form of automobile insurance, nor in any manner 48991
advise, suggest, or influence any licensee or applicant for 48992
license for or against any kind or type of automobile insurance, 48993
insurance company, or agent, nor have the deputy registrar's 48994
office directly connected with the office of any automobile 48995

insurance agent, nor impart any information furnished by any 48996
applicant for a license or identification card to any person, 48997
except the registrar. This division shall not apply to any 48998
nonprofit corporation appointed deputy registrar. 48999

(D) The registrar shall immediately remove a deputy registrar 49000
who violates the requirements of this chapter. 49001

(E) The registrar shall periodically solicit bids and enter 49002
into a contract for the provision of laminating equipment and 49003
laminating materials to the registrar and all deputy registrars. 49004
The registrar shall not consider any bid that does not provide for 49005
the supplying of both laminating equipment and laminating 49006
materials. The laminating materials selected shall contain a 49007
security feature so that any tampering with the laminating 49008
material covering a license or identification card is readily 49009
apparent. In soliciting bids and entering into a contract for the 49010
provision of laminating equipment and laminating materials, the 49011
registrar shall observe all procedures required by law. 49012

Sec. 4507.011. (A) Each deputy registrar assigned to a 49013
driver's license examining station by the registrar of motor 49014
vehicles as provided in section 4507.01 of the Revised Code shall 49015
remit to the ~~superintendent~~ director of the ~~state highway patrol~~ 49016
public safety a rental fee equal to the percentage of space 49017
occupied by the deputy registrar in the driver's license examining 49018
station multiplied by the rental fee paid for the entire driver's 49019
license examining station plus a pro rata share of all utility 49020
costs. All such moneys received by the ~~superintendent~~ director 49021
shall be deposited in the state treasury to the credit of the 49022
registrar rental fund, which is hereby created. The moneys in the 49023
fund shall be used by the ~~state highway patrol~~ department of 49024
public safety only to pay the rent and expenses of the driver's 49025
license examining stations. All investment earnings of the fund 49026

shall be credited to the fund. 49027

(B) Each deputy registrar assigned to a bureau of motor 49028
vehicles' location shall reimburse the registrar a monthly 49029
building rental fee, including applicable utility charges. All 49030
such moneys received by the registrar shall be deposited into the 49031
state bureau of motor vehicles fund created in section 4501.25 of 49032
the Revised Code. 49033

Sec. 4507.12. (A) Except as provided in division (C) of 49034
section 4507.10 of the Revised Code, each person applying for the 49035
renewal of a driver's license shall submit to a screening of the 49036
person's vision before the license may be renewed. The vision 49037
screening shall be conducted at the office of the deputy registrar 49038
receiving the application for license renewal. 49039

(B) When the results of a vision screening given under 49040
division (A) of this section indicate that the vision of the 49041
person examined meets the standards required for licensing, the 49042
deputy registrar may renew the person's driver's license at that 49043
time. 49044

(C) When the results of a vision screening given under 49045
division (A) of this section indicate that the vision of the 49046
person screened may not meet the standards required for licensing, 49047
the deputy registrar shall not renew the person's driver's license 49048
at that time but shall refer the person to a driver's license 49049
examiner appointed by the ~~superintendent~~ director of the ~~state~~ 49050
~~highway patrol~~ public safety under section ~~5503.21~~ 5502.05 of the 49051
Revised Code for a further examination of the person's vision. 49052
When a person referred to a driver's license examiner by a deputy 49053
registrar does not meet the vision standards required for 49054
licensing, the driver's license examiner shall retain the person's 49055
operator's or chauffeur's license and shall immediately notify the 49056
registrar of motor vehicles of that fact. No driver's license 49057

shall be issued to any such person, until the person's vision is 49058
corrected to meet the standards required for licensing and the 49059
person passes the vision screening required by this section. Any 49060
person who operates a motor vehicle on a highway, or on any public 49061
or private property used by the public for purposes of vehicular 49062
travel or parking, during the time the person's driver's license 49063
is held by a driver's license examiner under this division, shall 49064
be deemed to be operating a motor vehicle in violation of division 49065
(A) of section 4510.12 of the Revised Code. 49066

(D) The registrar shall adopt rules and shall provide any 49067
forms necessary to properly conduct vision screenings at the 49068
office of a deputy registrar. 49069

(E) No person conducting vision screenings under this section 49070
shall be personally liable for damages for injury or loss to 49071
persons or property and for death caused by the operation of a 49072
motor vehicle by any person whose driver's license was renewed by 49073
the deputy registrar under division (B) of this section. 49074

Sec. 4507.51. (A)(1) Every application for an identification 49075
card or duplicate shall be made on a form furnished by the 49076
registrar of motor vehicles, shall be signed by the applicant, and 49077
by the applicant's parent or guardian if the applicant is under 49078
eighteen years of age, and shall contain the following information 49079
pertaining to the applicant: name, date of birth, sex, general 49080
description including the applicant's height, weight, hair color, 49081
and eye color, address, and social security number. The 49082
application also shall state whether an applicant wishes to 49083
certify willingness to make an anatomical gift under section 49084
2108.05 of the Revised Code and shall include information about 49085
the requirements of sections 2108.01 to 2108.29 of the Revised 49086
Code that apply to persons who are less than eighteen years of 49087
age. The statement regarding willingness to make such a donation 49088

shall be given no consideration in the decision of whether to 49089
issue an identification card. Each applicant shall be photographed 49090
in color at the time of making application. 49091

(2)(a) The application also shall state whether the applicant 49092
has executed a valid durable power of attorney for health care 49093
pursuant to sections 1337.11 to 1337.17 of the Revised Code or has 49094
executed a declaration governing the use or continuation, or the 49095
withholding or withdrawal, of life-sustaining treatment pursuant 49096
to sections 2133.01 to 2133.15 of the Revised Code and, if the 49097
applicant has executed either type of instrument, whether the 49098
applicant wishes the identification card issued to indicate that 49099
the applicant has executed the instrument. 49100

(b) On and after October 7, 2009, the application also shall 49101
state whether the applicant is a veteran, active duty, or 49102
reservist of the armed forces of the United States and, if the 49103
applicant is such, whether the applicant wishes the identification 49104
card issued to indicate that the applicant is a veteran, active 49105
duty, or reservist of the armed forces of the United States by a 49106
military designation on the identification card. 49107

(3) The registrar or deputy registrar, in accordance with 49108
section 3503.11 of the Revised Code, shall register as an elector 49109
any person who applies for an identification card or duplicate if 49110
the applicant is eligible and wishes to be registered as an 49111
elector. The decision of an applicant whether to register as an 49112
elector shall be given no consideration in the decision of whether 49113
to issue the applicant an identification card or duplicate. 49114

(B) The application for an identification card or duplicate 49115
shall be filed in the office of the registrar or deputy registrar. 49116
Each applicant shall present documentary evidence as required by 49117
the registrar of the applicant's age and identity, and the 49118
applicant shall swear that all information given is true. An 49119
identification card issued by the department of rehabilitation and 49120

correction under section 5120.59 of the Revised Code or an 49121
identification card issued by the department of youth services 49122
under section 5139.511 of the Revised Code shall be sufficient 49123
documentary evidence under this division upon verification of the 49124
applicant's social security number by the registrar or a deputy 49125
registrar. Upon issuing an identification card under this section 49126
for a person who has been issued an identification card under 49127
section 5120.59 or section 5139.511 of the Revised Code, the 49128
registrar or deputy registrar shall destroy the identification 49129
card issued under section 5120.59 or section 5139.511 of the 49130
Revised Code. 49131

All applications for an identification card or duplicate 49132
shall be filed in duplicate, and if submitted to a deputy 49133
registrar, a copy shall be forwarded to the registrar. The 49134
registrar shall prescribe rules for the manner in which a deputy 49135
registrar is to file and maintain applications and other records. 49136
The registrar shall maintain a suitable, indexed record of all 49137
applications denied and cards issued or canceled. 49138

(C) In addition to any other information it contains, on and 49139
after the date that is fifteen months after ~~the effective date of~~ 49140
~~this amendment~~ April 7, 2009, the form furnished by the registrar 49141
of motor vehicles for an application for an identification card or 49142
duplicate shall inform applicants that the applicant must present 49143
a copy of the applicant's DD-214 or an equivalent document in 49144
order to qualify to have the card or duplicate indicate that the 49145
applicant is an honorably discharged veteran of the armed forces 49146
of the United States based on a request made pursuant to division 49147
(A)(2)(b) of this section. 49148

Sec. 4510.037. (A) When the registrar of motor vehicles 49149
determines that the total points charged against any person under 49150
section 4510.036 of the Revised Code exceed five, the registrar 49151

shall send a warning letter to the person at the person's last 49152
known address by regular mail. The warning letter shall list the 49153
reported violations that are the basis of the points charged, list 49154
the number of points charged for each violation, and outline the 49155
suspension provisions of this section. 49156

(B) When the registrar determines that the total points 49157
charged against any person under section 4510.036 of the Revised 49158
Code within any two-year period beginning on the date of the first 49159
conviction within the two-year period is equal to twelve or more, 49160
the registrar shall send a written notice to the person at the 49161
person's last known address by regular mail. The notice shall list 49162
the reported violations that are the basis of the points charged, 49163
list the number of points charged for each violation, and state 49164
that, because the total number of points charged against the 49165
person within the applicable two-year period is equal to twelve or 49166
more, the registrar is imposing a class D suspension of the 49167
person's driver's or commercial driver's license or permit or 49168
nonresident operating privileges for the period of time specified 49169
in division (B)(4) of section 4510.02 of the Revised Code. The 49170
notice also shall state that the suspension is effective on the 49171
twentieth day after the mailing of the notice, unless the person 49172
files a petition appealing the determination and suspension in the 49173
municipal court, county court, or, if the person is under the age 49174
of eighteen, the juvenile division of the court of common pleas in 49175
whose jurisdiction the person resides or, if the person is not a 49176
resident of this state, in the Franklin county municipal court or 49177
juvenile division of the Franklin county court of common pleas. By 49178
filing the appeal of the determination and suspension, the person 49179
agrees to pay the cost of the proceedings in the appeal of the 49180
determination and suspension and alleges that the person can show 49181
cause why the person's driver's or commercial driver's license or 49182
permit or nonresident operating privileges should not be 49183
suspended. 49184

(C)(1) Any person against whom at least two but less than 49185
twelve points have been charged under section 4510.036 of the 49186
Revised Code may enroll in a course of remedial driving 49187
instruction that is approved by the director of public safety. 49188
Upon the person's completion of an approved course of remedial 49189
driving instruction, the person may apply to the registrar on a 49190
form prescribed by the registrar for a credit of two points on the 49191
person's driving record. Upon receipt of the application and proof 49192
of completion of the approved remedial driving course, the 49193
registrar shall approve the two-point credit. The registrar shall 49194
not approve any credits for a person who completes an approved 49195
course of remedial driving instruction pursuant to a judge's order 49196
under section 4510.02 of the Revised Code. 49197

(2) In any three-year period, the registrar shall approve 49198
only one two-point credit on a person's driving record under 49199
division (C)(1) of this section. The registrar shall approve not 49200
more than five two-point credits on a person's driving record 49201
under division (C)(1) of this section during that person's 49202
lifetime. 49203

(D) When a judge of a court of record suspends a person's 49204
driver's or commercial driver's license or permit or nonresident 49205
operating privilege and charges points against the person under 49206
section 4510.036 of the Revised Code for the offense that resulted 49207
in the suspension, the registrar shall credit that period of 49208
suspension against the time of any subsequent suspension imposed 49209
under this section for which those points were used to impose the 49210
subsequent suspension. When a United States district court that 49211
has jurisdiction within this state suspends a person's driver's or 49212
commercial driver's license or permit or nonresident operating 49213
privileges pursuant to the "Assimilative Crimes Act," 102 Stat. 49214
4381 (1988), 18 U.S.C.A. 13, as amended, the district court 49215
prepares an abstract pursuant to section 4510.031 of the Revised 49216

Code, and the district court charges points against the person 49217
under section 4510.036 of the Revised Code for the offense that 49218
resulted in the suspension, the registrar shall credit the period 49219
of suspension imposed by the district court against the time of 49220
any subsequent suspension imposed under this section for which the 49221
points were used to impose the subsequent suspension. 49222

(E) The registrar, upon the written request of a licensee who 49223
files a petition under division (B) of this section, shall furnish 49224
the licensee a certified copy of the registrar's record of the 49225
convictions and bond forfeitures of the person. This record shall 49226
include the name, address, and date of birth of the licensee; the 49227
name of the court in which each conviction or bail forfeiture took 49228
place; the nature of the offense that was the basis of the 49229
conviction or bond forfeiture; and any other information that the 49230
registrar considers necessary. If the record indicates that twelve 49231
points or more have been charged against the person within a 49232
two-year period, it is prima-facie evidence that the person is a 49233
repeat traffic offender, and the registrar shall suspend the 49234
person's driver's or commercial driver's license or permit or 49235
nonresident operating privilege pursuant to division (B) of this 49236
section. 49237

In hearing the petition and determining whether the person 49238
filing the petition has shown cause why the person's driver's or 49239
commercial driver's license or permit or nonresident operating 49240
privilege should not be suspended, the court shall decide the 49241
issue on the record certified by the registrar and any additional 49242
relevant, competent, and material evidence that either the 49243
registrar or the person whose license is sought to be suspended 49244
submits. 49245

(F) If a petition is filed under division (B) of this section 49246
in a county court, the prosecuting attorney of the county in which 49247
the case is pending shall represent the registrar in the 49248

proceedings, except that, if the petitioner resides in a municipal 49249
corporation within the jurisdiction of the county court, the city 49250
director of law, village solicitor, or other chief legal officer 49251
of the municipal corporation shall represent the registrar in the 49252
proceedings. If a petition is filed under division (B) of this 49253
section in a municipal court, the registrar shall be represented 49254
in the resulting proceedings as provided in section 1901.34 of the 49255
Revised Code. 49256

(G) If the court determines from the evidence submitted that 49257
a person who filed a petition under division (B) of this section 49258
has failed to show cause why the person's driver's or commercial 49259
driver's license or permit or nonresident operating privileges 49260
should not be suspended, the court shall assess against the person 49261
the cost of the proceedings in the appeal of the determination and 49262
suspension and shall impose the applicable suspension under this 49263
section or suspend all or a portion of the suspension and impose 49264
any conditions upon the person that the court considers proper or 49265
impose upon the person a community control sanction pursuant to 49266
section 2929.15 or 2929.25 of the Revised Code. If the court 49267
determines from the evidence submitted that a person who filed a 49268
petition under division (B) of this section has shown cause why 49269
the person's driver's or commercial driver's license or permit or 49270
nonresident operating privileges should not be suspended, the 49271
costs of the appeal proceeding shall be paid out of the county 49272
treasury of the county in which the proceedings were held. 49273

(H) Any person whose driver's or commercial driver's license 49274
or permit or nonresident operating privileges are suspended under 49275
this section is not entitled to apply for or receive a new 49276
driver's or commercial driver's license or permit or to request or 49277
be granted nonresident operating privileges during the effective 49278
period of the suspension. 49279

(I) Upon the termination of any suspension or other penalty 49280

imposed under this section involving the surrender of license or 49281
permit and upon the request of the person whose license or permit 49282
was suspended or surrendered, the registrar shall return the 49283
license or permit to the person upon determining that the person 49284
has complied with all provisions of section 4510.038 of the 49285
Revised Code or, if the registrar destroyed the license or permit 49286
pursuant to section 4510.52 of the Revised Code, shall reissue the 49287
person's license or permit. 49288

(J) Any person whose driver's or commercial driver's license 49289
or permit or nonresident operating privileges are suspended as a 49290
repeat traffic offender under this section and who, during the 49291
suspension, operates any motor vehicle upon any public roads and 49292
highways is guilty of driving under a twelve-point suspension, a 49293
misdemeanor of the first degree. The court shall sentence the 49294
offender to a minimum term of three days in jail. No court shall 49295
suspend the first three days of jail time imposed pursuant to this 49296
division. 49297

(K) The registrar, in accordance with specific statutory 49298
authority, may suspend the privilege of driving a motor vehicle on 49299
the public roads and highways of this state that is granted to 49300
nonresidents by section 4507.04 of the Revised Code. 49301

(L) ~~Any~~ (1) Except as provided in division (L)(2) of this 49302
section, any course of remedial driving instruction the director 49303
of public safety approves under this section shall require its 49304
students to attend at least fifty per cent of the course in 49305
person. ~~The~~ and the director shall not approve any course of 49306
remedial driving instruction that permits its students to take 49307
more than fifty per cent of the course in any other manner, 49308
including via video teleconferencing or the internet. 49309

(2) The director may approve a course of remedial instruction 49310
that permits students to take the entire course via video 49311
teleconferencing. In accordance with division (C) of this section, 49312

upon receiving an application with a certificate or other proof of 49313
completion of a course approved under this division, the registrar 49314
shall approve the two-point reduction. 49315

Sec. 4510.038. (A) Any person whose driver's or commercial 49316
driver's license or permit is suspended or who is granted limited 49317
driving privileges under section 4510.037, under division (H) of 49318
section 4511.19, or under section 4510.07 of the Revised Code for 49319
a violation of a municipal ordinance that is substantially 49320
equivalent to division (B) of section 4511.19 of the Revised Code 49321
is not eligible to retain the license, or to have the driving 49322
privileges reinstated, until each of the following has occurred: 49323

(1) The person successfully completes a course of remedial 49324
driving instruction approved by the director of public safety. A 49325
minimum of twenty-five per cent of the number of hours of 49326
instruction included in the course shall be devoted to instruction 49327
on driver attitude. 49328

The course also shall devote a number of hours to instruction 49329
in the area of alcohol and drugs and the operation of vehicles. 49330
The instruction shall include, but not be limited to, a review of 49331
the laws governing the operation of a vehicle while under the 49332
influence of alcohol, drugs, or a combination of them, the dangers 49333
of operating a vehicle while under the influence of alcohol, 49334
drugs, or a combination of them, and other information relating to 49335
the operation of vehicles and the consumption of alcoholic 49336
beverages and use of drugs. The director, in consultation with the 49337
director of alcohol and drug addiction services, shall prescribe 49338
the content of the instruction. The number of hours devoted to the 49339
area of alcohol and drugs and the operation of vehicles shall 49340
comprise a minimum of twenty-five per cent of the number of hours 49341
of instruction included in the course. 49342

(2) The person is examined in the manner provided for in 49343

section 4507.20 of the Revised Code, and found by the registrar of motor vehicles to be qualified to operate a motor vehicle;

(3) The person gives and maintains proof of financial responsibility, in accordance with section 4509.45 of the Revised Code.

(B) ~~Any~~ (1) Except as provided in division (B)(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 or the internet.

Sec. 4511.191. (A)(1) As used in this section:

(a) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(b) "Alcohol monitoring device" means any device that provides for continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property

used by the public for vehicular travel or parking within this 49374
state or who is in physical control of a vehicle, streetcar, or 49375
trackless trolley shall be deemed to have given consent to a 49376
chemical test or tests of the person's whole blood, blood serum or 49377
plasma, breath, or urine to determine the alcohol, drug of abuse, 49378
controlled substance, metabolite of a controlled substance, or 49379
combination content of the person's whole blood, blood serum or 49380
plasma, breath, or urine if arrested for a violation of division 49381
(A) or (B) of section 4511.19 of the Revised Code, section 49382
4511.194 of the Revised Code or a substantially equivalent 49383
municipal ordinance, or a municipal OVI ordinance. 49384

(3) The chemical test or tests under division (A)(2) of this 49385
section shall be administered at the request of a law enforcement 49386
officer having reasonable grounds to believe the person was 49387
operating or in physical control of a vehicle, streetcar, or 49388
trackless trolley in violation of a division, section, or 49389
ordinance identified in division (A)(2) of this section. The law 49390
enforcement agency by which the officer is employed shall 49391
designate which of the tests shall be administered. 49392

(4) Any person who is dead or unconscious, or who otherwise 49393
is in a condition rendering the person incapable of refusal, shall 49394
be deemed to have consented as provided in division (A)(2) of this 49395
section, and the test or tests may be administered, subject to 49396
sections 313.12 to 313.16 of the Revised Code. 49397

(5)(a) If a law enforcement officer arrests a person for a 49398
violation of division (A) or (B) of section 4511.19 of the Revised 49399
Code, section 4511.194 of the Revised Code or a substantially 49400
equivalent municipal ordinance, or a municipal OVI ordinance and 49401
if the person if convicted would be required to be sentenced under 49402
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 49403
Code, the law enforcement officer shall request the person to 49404
submit, and the person shall submit, to a chemical test or tests 49405

of the person's whole blood, blood serum or plasma, breath, or 49406
urine for the purpose of determining the alcohol, drug of abuse, 49407
controlled substance, metabolite of a controlled substance, or 49408
combination content of the person's whole blood, blood serum or 49409
plasma, breath, or urine. A law enforcement officer who makes a 49410
request pursuant to this division that a person submit to a 49411
chemical test or tests is not required to advise the person of the 49412
consequences of submitting to, or refusing to submit to, the test 49413
or tests and is not required to give the person the form described 49414
in division (B) of section 4511.192 of the Revised Code, but the 49415
officer shall advise the person at the time of the arrest that if 49416
the person refuses to take a chemical test the officer may employ 49417
whatever reasonable means are necessary to ensure that the person 49418
submits to a chemical test of the person's whole blood or blood 49419
serum or plasma. The officer shall also advise the person at the 49420
time of the arrest that the person may have an independent 49421
chemical test taken at the person's own expense. Divisions (A)(3) 49422
and (4) of this section apply to the administration of a chemical 49423
test or tests pursuant to this division. 49424

(b) If a person refuses to submit to a chemical test upon a 49425
request made pursuant to division (A)(5)(a) of this section, the 49426
law enforcement officer who made the request may employ whatever 49427
reasonable means are necessary to ensure that the person submits 49428
to a chemical test of the person's whole blood or blood serum or 49429
plasma. A law enforcement officer who acts pursuant to this 49430
division to ensure that a person submits to a chemical test of the 49431
person's whole blood or blood serum or plasma is immune from 49432
criminal and civil liability based upon a claim for assault and 49433
battery or any other claim for the acts, unless the officer so 49434
acted with malicious purpose, in bad faith, or in a wanton or 49435
reckless manner. 49436

(B)(1) Upon receipt of the sworn report of a law enforcement 49437

officer who arrested a person for a violation of division (A) or 49438
(B) of section 4511.19 of the Revised Code, section 4511.194 of 49439
the Revised Code or a substantially equivalent municipal 49440
ordinance, or a municipal OVI ordinance that was completed and 49441
sent to the registrar of motor vehicles and a court pursuant to 49442
section 4511.192 of the Revised Code in regard to a person who 49443
refused to take the designated chemical test, the registrar shall 49444
enter into the registrar's records the fact that the person's 49445
driver's or commercial driver's license or permit or nonresident 49446
operating privilege was suspended by the arresting officer under 49447
this division and that section and the period of the suspension, 49448
as determined under this section. The suspension shall be subject 49449
to appeal as provided in section 4511.197 of the Revised Code. The 49450
suspension shall be for whichever of the following periods 49451
applies: 49452

(a) Except when division (B)(1)(b), (c), or (d) of this 49453
section applies and specifies a different class or length of 49454
suspension, the suspension shall be a class C suspension for the 49455
period of time specified in division (B)(3) of section 4510.02 of 49456
the Revised Code. 49457

(b) If the arrested person, within six years of the date on 49458
which the person refused the request to consent to the chemical 49459
test, had refused one previous request to consent to a chemical 49460
test or had been convicted of or pleaded guilty to one violation 49461
of division (A) or (B) of section 4511.19 of the Revised Code or 49462
one other equivalent offense, the suspension shall be a class B 49463
suspension imposed for the period of time specified in division 49464
(B)(2) of section 4510.02 of the Revised Code. 49465

(c) If the arrested person, within six years of the date on 49466
which the person refused the request to consent to the chemical 49467
test, had refused two previous requests to consent to a chemical 49468
test, had been convicted of or pleaded guilty to two violations of 49469

division (A) or (B) of section 4511.19 of the Revised Code or 49470
other equivalent offenses, or had refused one previous request to 49471
consent to a chemical test and also had been convicted of or 49472
pleaded guilty to one violation of division (A) or (B) of section 49473
4511.19 of the Revised Code or other equivalent offenses, which 49474
violation or offense arose from an incident other than the 49475
incident that led to the refusal, the suspension shall be a class 49476
A suspension imposed for the period of time specified in division 49477
(B)(1) of section 4510.02 of the Revised Code. 49478

(d) If the arrested person, within six years of the date on 49479
which the person refused the request to consent to the chemical 49480
test, had refused three or more previous requests to consent to a 49481
chemical test, had been convicted of or pleaded guilty to three or 49482
more violations of division (A) or (B) of section 4511.19 of the 49483
Revised Code or other equivalent offenses, or had refused a number 49484
of previous requests to consent to a chemical test and also had 49485
been convicted of or pleaded guilty to a number of violations of 49486
division (A) or (B) of section 4511.19 of the Revised Code or 49487
other equivalent offenses that cumulatively total three or more 49488
such refusals, convictions, and guilty pleas, the suspension shall 49489
be for five years. 49490

(2) The registrar shall terminate a suspension of the 49491
driver's or commercial driver's license or permit of a resident or 49492
of the operating privilege of a nonresident, or a denial of a 49493
driver's or commercial driver's license or permit, imposed 49494
pursuant to division (B)(1) of this section upon receipt of notice 49495
that the person has entered a plea of guilty to, or that the 49496
person has been convicted after entering a plea of no contest to, 49497
operating a vehicle in violation of section 4511.19 of the Revised 49498
Code or in violation of a municipal OVI ordinance, if the offense 49499
for which the conviction is had or the plea is entered arose from 49500
the same incident that led to the suspension or denial. 49501

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 arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (C)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense

for which the conviction is had or the plea is entered arose from 49566
the same incident that led to the suspension or denial. 49567

The registrar shall credit against any judicial suspension of 49568
a person's driver's or commercial driver's license or permit or 49569
nonresident operating privilege imposed pursuant to section 49570
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 49571
Revised Code for a violation of a municipal OVI ordinance, any 49572
time during which the person serves a related suspension imposed 49573
pursuant to division (C)(1) of this section. 49574

(D)(1) A suspension of a person's driver's or commercial 49575
driver's license or permit or nonresident operating privilege 49576
under this section for the time described in division (B) or (C) 49577
of this section is effective immediately from the time at which 49578
the arresting officer serves the notice of suspension upon the 49579
arrested person. Any subsequent finding that the person is not 49580
guilty of the charge that resulted in the person being requested 49581
to take the chemical test or tests under division (A) of this 49582
section does not affect the suspension. 49583

(2) If a person is arrested for operating a vehicle, 49584
streetcar, or trackless trolley in violation of division (A) or 49585
(B) of section 4511.19 of the Revised Code or a municipal OVI 49586
ordinance, or for being in physical control of a vehicle, 49587
streetcar, or trackless trolley in violation of section 4511.194 49588
of the Revised Code or a substantially equivalent municipal 49589
ordinance, regardless of whether the person's driver's or 49590
commercial driver's license or permit or nonresident operating 49591
privilege is or is not suspended under division (B) or (C) of this 49592
section or Chapter 4510. of the Revised Code, the person's initial 49593
appearance on the charge resulting from the arrest shall be held 49594
within five days of the person's arrest or the issuance of the 49595
citation to the person, subject to any continuance granted by the 49596
court pursuant to section 4511.197 of the Revised Code regarding 49597

the issues specified in that division. 49598

(E) When it finally has been determined under the procedures 49599
of this section and sections 4511.192 to 4511.197 of the Revised 49600
Code that a nonresident's privilege to operate a vehicle within 49601
this state has been suspended, the registrar shall give 49602
information in writing of the action taken to the motor vehicle 49603
administrator of the state of the person's residence and of any 49604
state in which the person has a license. 49605

(F) At the end of a suspension period under this section, 49606
under section 4511.194, section 4511.196, or division (G) of 49607
section 4511.19 of the Revised Code, or under section 4510.07 of 49608
the Revised Code for a violation of a municipal OVI ordinance and 49609
upon the request of the person whose driver's or commercial 49610
driver's license or permit was suspended and who is not otherwise 49611
subject to suspension, cancellation, or disqualification, the 49612
registrar shall return the driver's or commercial driver's license 49613
or permit to the person upon the occurrence of all of the 49614
conditions specified in divisions (F)(1) and (2) of this section: 49615

(1) A showing that the person has proof of financial 49616
responsibility, a policy of liability insurance in effect that 49617
meets the minimum standards set forth in section 4509.51 of the 49618
Revised Code, or proof, to the satisfaction of the registrar, that 49619
the person is able to respond in damages in an amount at least 49620
equal to the minimum amounts specified in section 4509.51 of the 49621
Revised Code. 49622

(2) Subject to the limitation contained in division (F)(3) of 49623
this section, payment by the person to the registrar or an 49624
eligible deputy registrar of a license reinstatement fee of four 49625
hundred seventy-five dollars, which fee shall be deposited in the 49626
state treasury and credited as follows: 49627

(a) One hundred twelve dollars and fifty cents shall be 49628

credited to the statewide treatment and prevention fund created by 49629
section 4301.30 of the Revised Code. Money credited to the fund 49630
under this section shall be used for purposes identified in the 49631
comprehensive statewide alcohol and drug addiction services plan 49632
developed under section 3793.04 of the Revised Code. 49633

(b) Seventy-five dollars shall be credited to the reparations 49634
fund created by section 2743.191 of the Revised Code. 49635

(c) Thirty-seven dollars and fifty cents shall be credited to 49636
the indigent drivers alcohol treatment fund, which is hereby 49637
established in the state treasury. Except as otherwise provided in 49638
division (F)(2)(c) of this section, moneys in the fund shall be 49639
distributed by the department of alcohol and drug addiction 49640
services to the county indigent drivers alcohol treatment funds, 49641
the county juvenile indigent drivers alcohol treatment funds, and 49642
the municipal indigent drivers alcohol treatment funds that are 49643
required to be established by counties and municipal corporations 49644
pursuant to division (H) of this section, and shall be used only 49645
to pay the cost of an alcohol and drug addiction treatment program 49646
attended by an offender or juvenile traffic offender who is 49647
ordered to attend an alcohol and drug addiction treatment program 49648
by a county, juvenile, or municipal court judge and who is 49649
determined by the county, juvenile, or municipal court judge not 49650
to have the means to pay for the person's attendance at the 49651
program or to pay the costs specified in division (H)(4) of this 49652
section in accordance with that division. In addition, a county, 49653
juvenile, or municipal court judge may use moneys in the county 49654
indigent drivers alcohol treatment fund, county juvenile indigent 49655
drivers alcohol treatment fund, or municipal indigent drivers 49656
alcohol treatment fund to pay for the cost of the continued use of 49657
an alcohol monitoring device as described in divisions (H)(3) and 49658
(4) of this section. Moneys in the fund that are not distributed 49659
to a county indigent drivers alcohol treatment fund, a county 49660

juvenile indigent drivers alcohol treatment fund, or a municipal 49661
indigent drivers alcohol treatment fund under division (H) of this 49662
section because the director of alcohol and drug addiction 49663
services does not have the information necessary to identify the 49664
county or municipal corporation where the offender or juvenile 49665
offender was arrested may be transferred by the director of budget 49666
and management to the statewide treatment and prevention fund 49667
created by section 4301.30 of the Revised Code, upon certification 49668
of the amount by the director of alcohol and drug addiction 49669
services. 49670

(d) Seventy-five dollars shall be credited to the Ohio 49671
rehabilitation services commission established by section 3304.12 49672
of the Revised Code, to the services for rehabilitation fund, 49673
which is hereby established. The fund shall be used to match 49674
available federal matching funds where appropriate, and for any 49675
other purpose or program of the commission to rehabilitate people 49676
with disabilities to help them become employed and independent. 49677

(e) Seventy-five dollars shall be deposited into the state 49678
treasury and credited to the drug abuse resistance education 49679
programs fund, which is hereby established, to be used by the 49680
attorney general for the purposes specified in division (F)(4) of 49681
this section. 49682

(f) Thirty dollars shall be credited to the state bureau of 49683
motor vehicles fund created by section 4501.25 of the Revised 49684
Code. 49685

(g) Twenty dollars shall be credited to the trauma and 49686
emergency medical services ~~grants~~ fund created by section 4513.263 49687
of the Revised Code. 49688

(h) Fifty dollars shall be credited to the indigent drivers 49689
interlock and alcohol monitoring fund, which is hereby established 49690
in the state treasury. Moneys in the fund shall be distributed by 49691

the department of public safety to the county indigent drivers 49692
interlock and alcohol monitoring funds, the county juvenile 49693
indigent drivers interlock and alcohol monitoring funds, and the 49694
municipal indigent drivers interlock and alcohol monitoring funds 49695
that are required to be established by counties and municipal 49696
corporations pursuant to this section, and shall be used only to 49697
pay the cost of an immobilizing or disabling device, including a 49698
certified ignition interlock device, or an alcohol monitoring 49699
device used by an offender or juvenile offender who is ordered to 49700
use the device by a county, juvenile, or municipal court judge and 49701
who is determined by the county, juvenile, or municipal court 49702
judge not to have the means to pay for the person's use of the 49703
device. 49704

(3) If a person's driver's or commercial driver's license or 49705
permit is suspended under this section, under section 4511.196 or 49706
division (G) of section 4511.19 of the Revised Code, under section 49707
4510.07 of the Revised Code for a violation of a municipal OVI 49708
ordinance or under any combination of the suspensions described in 49709
division (F)(3) of this section, and if the suspensions arise from 49710
a single incident or a single set of facts and circumstances, the 49711
person is liable for payment of, and shall be required to pay to 49712
the registrar or an eligible deputy registrar, only one 49713
reinstatement fee of four hundred seventy-five dollars. The 49714
reinstatement fee shall be distributed by the bureau in accordance 49715
with division (F)(2) of this section. 49716

(4) The attorney general shall use amounts in the drug abuse 49717
resistance education programs fund to award grants to law 49718
enforcement agencies to establish and implement drug abuse 49719
resistance education programs in public schools. Grants awarded to 49720
a law enforcement agency under this section shall be used by the 49721
agency to pay for not more than fifty per cent of the amount of 49722
the salaries of law enforcement officers who conduct drug abuse 49723

resistance education programs in public schools. The attorney 49724
general shall not use more than six per cent of the amounts the 49725
attorney general's office receives under division (F)(2)(e) of 49726
this section to pay the costs it incurs in administering the grant 49727
program established by division (F)(2)(e) of this section and in 49728
providing training and materials relating to drug abuse resistance 49729
education programs. 49730

The attorney general shall report to the governor and the 49731
general assembly each fiscal year on the progress made in 49732
establishing and implementing drug abuse resistance education 49733
programs. These reports shall include an evaluation of the 49734
effectiveness of these programs. 49735

(5) In addition to the reinstatement fee under this section, 49736
if the person pays the reinstatement fee to a deputy registrar, 49737
the deputy registrar shall collect a service fee of ten dollars to 49738
compensate the deputy registrar for services performed under this 49739
section. The deputy registrar shall retain eight dollars of the 49740
service fee and shall transmit the reinstatement fee, plus two 49741
dollars of the service fee, to the registrar in the manner the 49742
registrar shall determine. 49743

(G) Suspension of a commercial driver's license under 49744
division (B) or (C) of this section shall be concurrent with any 49745
period of disqualification under section 3123.611 or 4506.16 of 49746
the Revised Code or any period of suspension under section 3123.58 49747
of the Revised Code. No person who is disqualified for life from 49748
holding a commercial driver's license under section 4506.16 of the 49749
Revised Code shall be issued a driver's license under Chapter 49750
4507. of the Revised Code during the period for which the 49751
commercial driver's license was suspended under division (B) or 49752
(C) of this section. No person whose commercial driver's license 49753
is suspended under division (B) or (C) of this section shall be 49754
issued a driver's license under Chapter 4507. of the Revised Code 49755

during the period of the suspension. 49756

(H)(1) Each county shall establish an indigent drivers 49757
alcohol treatment fund, each county shall establish a juvenile 49758
indigent drivers alcohol treatment fund, and each municipal 49759
corporation in which there is a municipal court shall establish an 49760
indigent drivers alcohol treatment fund. All revenue that the 49761
general assembly appropriates to the indigent drivers alcohol 49762
treatment fund for transfer to a county indigent drivers alcohol 49763
treatment fund, a county juvenile indigent drivers alcohol 49764
treatment fund, or a municipal indigent drivers alcohol treatment 49765
fund, all portions of fees that are paid under division (F) of 49766
this section and that are credited under that division to the 49767
indigent drivers alcohol treatment fund in the state treasury for 49768
a county indigent drivers alcohol treatment fund, a county 49769
juvenile indigent drivers alcohol treatment fund, or a municipal 49770
indigent drivers alcohol treatment fund, all portions of 49771
additional costs imposed under section 2949.094 of the Revised 49772
Code that are specified for deposit into a county, county 49773
juvenile, or municipal indigent drivers alcohol treatment fund by 49774
that section, and all portions of fines that are specified for 49775
deposit into a county or municipal indigent drivers alcohol 49776
treatment fund by section 4511.193 of the Revised Code shall be 49777
deposited into that county indigent drivers alcohol treatment 49778
fund, county juvenile indigent drivers alcohol treatment fund, or 49779
municipal indigent drivers alcohol treatment fund. The portions of 49780
the fees paid under division (F) of this section that are to be so 49781
deposited shall be determined in accordance with division (H)(2) 49782
of this section. Additionally, all portions of fines that are paid 49783
for a violation of section 4511.19 of the Revised Code or of any 49784
prohibition contained in Chapter 4510. of the Revised Code, and 49785
that are required under section 4511.19 or any provision of 49786
Chapter 4510. of the Revised Code to be deposited into a county 49787
indigent drivers alcohol treatment fund or municipal indigent 49788

drivers alcohol treatment fund shall be deposited into the 49789
appropriate fund in accordance with the applicable division of the 49790
section or provision. 49791

(2) That portion of the license reinstatement fee that is 49792
paid under division (F) of this section and that is credited under 49793
that division to the indigent drivers alcohol treatment fund shall 49794
be deposited into a county indigent drivers alcohol treatment 49795
fund, a county juvenile indigent drivers alcohol treatment fund, 49796
or a municipal indigent drivers alcohol treatment fund as follows: 49797

(a) Regarding a suspension imposed under this section, that 49798
portion of the fee shall be deposited as follows: 49799

(i) If the fee is paid by a person who was charged in a 49800
county court with the violation that resulted in the suspension or 49801
in the imposition of the court costs, the portion shall be 49802
deposited into the county indigent drivers alcohol treatment fund 49803
under the control of that court; 49804

(ii) If the fee is paid by a person who was charged in a 49805
juvenile court with the violation that resulted in the suspension 49806
or in the imposition of the court costs, the portion shall be 49807
deposited into the county juvenile indigent drivers alcohol 49808
treatment fund established in the county served by the court; 49809

(iii) If the fee is paid by a person who was charged in a 49810
municipal court with the violation that resulted in the suspension 49811
or in the imposition of the court costs, the portion shall be 49812
deposited into the municipal indigent drivers alcohol treatment 49813
fund under the control of that court. 49814

(b) Regarding a suspension imposed under section 4511.19 of 49815
the Revised Code or under section 4510.07 of the Revised Code for 49816
a violation of a municipal OVI ordinance, that portion of the fee 49817
shall be deposited as follows: 49818

(i) If the fee is paid by a person whose license or permit 49819

was suspended by a county court, the portion shall be deposited 49820
into the county indigent drivers alcohol treatment fund under the 49821
control of that court; 49822

(ii) If the fee is paid by a person whose license or permit 49823
was suspended by a municipal court, the portion shall be deposited 49824
into the municipal indigent drivers alcohol treatment fund under 49825
the control of that court. 49826

(3) Expenditures from a county indigent drivers alcohol 49827
treatment fund, a county juvenile indigent drivers alcohol 49828
treatment fund, or a municipal indigent drivers alcohol treatment 49829
fund shall be made only upon the order of a county, juvenile, or 49830
municipal court judge and only for payment of the cost of an 49831
assessment or the cost of the attendance at an alcohol and drug 49832
addiction treatment program of a person who is convicted of, or 49833
found to be a juvenile traffic offender by reason of, a violation 49834
of division (A) of section 4511.19 of the Revised Code or a 49835
substantially similar municipal ordinance, who is ordered by the 49836
court to attend the alcohol and drug addiction treatment program, 49837
and who is determined by the court to be unable to pay the cost of 49838
the assessment or the cost of attendance at the treatment program 49839
or for payment of the costs specified in division (H)(4) of this 49840
section in accordance with that division. The alcohol and drug 49841
addiction services board or the board of alcohol, drug addiction, 49842
and mental health services established pursuant to section 340.02 49843
or 340.021 of the Revised Code and serving the alcohol, drug 49844
addiction, and mental health service district in which the court 49845
is located shall administer the indigent drivers alcohol treatment 49846
program of the court. When a court orders an offender or juvenile 49847
traffic offender to obtain an assessment or attend an alcohol and 49848
drug addiction treatment program, the board shall determine which 49849
program is suitable to meet the needs of the offender or juvenile 49850
traffic offender, and when a suitable program is located and space 49851

is available at the program, the offender or juvenile traffic 49852
offender shall attend the program designated by the board. A 49853
reasonable amount not to exceed five per cent of the amounts 49854
credited to and deposited into the county indigent drivers alcohol 49855
treatment fund, the county juvenile indigent drivers alcohol 49856
treatment fund, or the municipal indigent drivers alcohol 49857
treatment fund serving every court whose program is administered 49858
by that board shall be paid to the board to cover the costs it 49859
incurs in administering those indigent drivers alcohol treatment 49860
programs. 49861

In addition, upon exhaustion of moneys in the indigent 49862
drivers interlock and alcohol monitoring fund for the use of an 49863
alcohol monitoring device, a county, juvenile, or municipal court 49864
judge may use moneys in the county indigent drivers alcohol 49865
treatment fund, county juvenile indigent drivers alcohol treatment 49866
fund, or municipal indigent drivers alcohol treatment fund in the 49867
following manners: 49868

(a) If the source of the moneys was an appropriation of the 49869
general assembly, a portion of a fee that was paid under division 49870
(F) of this section, a portion of a fine that was specified for 49871
deposit into the fund by section 4511.193 of the Revised Code, or 49872
a portion of a fine that was paid for a violation of section 49873
4511.19 of the Revised Code or of a provision contained in Chapter 49874
4510. of the Revised Code that was required to be deposited into 49875
the fund, to pay for the continued use of an alcohol monitoring 49876
device by an offender or juvenile traffic offender, in conjunction 49877
with a treatment program approved by the department of alcohol and 49878
drug addiction services, when such use is determined clinically 49879
necessary by the treatment program and when the court determines 49880
that the offender or juvenile traffic offender is unable to pay 49881
all or part of the daily monitoring or cost of the device; 49882

(b) If the source of the moneys was a portion of an 49883

additional court cost imposed under section 2949.094 of the Revised Code, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device. The moneys may be used for a device as described in this division if the use of the device is in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when the use of the device is determined clinically necessary by the treatment program, but the use of a device is not required to be in conjunction with a treatment program approved by the department in order for the moneys to be used for the device as described in this division.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a

contributing factor leading to the criminal or delinquent activity 49916
or the juvenile traffic offense with which the person is charged. 49917

(ii) The court determines that the person is unable to pay 49918
the cost of the alcohol and drug abuse assessment and treatment 49919
for which the surplus money will be used. 49920

(b) All or part of the cost of purchasing alcohol monitoring 49921
devices to be used in conjunction with division (H)(3) of this 49922
section, upon exhaustion of moneys in the indigent drivers 49923
interlock and alcohol monitoring fund for the use of an alcohol 49924
monitoring device. 49925

(5) For the purpose of determining as described in division 49926
(F)(2)(c) of this section whether an offender does not have the 49927
means to pay for the offender's attendance at an alcohol and drug 49928
addiction treatment program or whether an alleged offender or 49929
delinquent child is unable to pay the costs specified in division 49930
(H)(4) of this section, the court shall use the indigent client 49931
eligibility guidelines and the standards of indigency established 49932
by the state public defender to make the determination. 49933

(6) The court shall identify and refer any alcohol and drug 49934
addiction program that is not certified under section 3793.06 of 49935
the Revised Code and that is interested in receiving amounts from 49936
the surplus in the fund declared under division (H)(4) of this 49937
section to the department of alcohol and drug addiction services 49938
in order for the program to become a certified alcohol and drug 49939
addiction program. The department shall keep a record of applicant 49940
referrals received pursuant to this division and shall submit a 49941
report on the referrals each year to the general assembly. If a 49942
program interested in becoming certified makes an application to 49943
become certified pursuant to section 3793.06 of the Revised Code, 49944
the program is eligible to receive surplus funds as long as the 49945
application is pending with the department. The department of 49946
alcohol and drug addiction services must offer technical 49947

assistance to the applicant. If the interested program withdraws 49948
the certification application, the department must notify the 49949
court, and the court shall not provide the interested program with 49950
any further surplus funds. 49951

(7)(a) Each alcohol and drug addiction services board and 49952
board of alcohol, drug addiction, and mental health services 49953
established pursuant to section 340.02 or 340.021 of the Revised 49954
Code shall submit to the department of alcohol and drug addiction 49955
services an annual report for each indigent drivers alcohol 49956
treatment fund in that board's area. 49957

(b) The report, which shall be submitted not later than sixty 49958
days after the end of the state fiscal year, shall provide the 49959
total payment that was made from the fund, including the number of 49960
indigent consumers that received treatment services and the number 49961
of indigent consumers that received an alcohol monitoring device. 49962
The report shall identify the treatment program and expenditure 49963
for an alcohol monitoring device for which that payment was made. 49964
The report shall include the fiscal year balance of each indigent 49965
drivers alcohol treatment fund located in that board's area. In 49966
the event that a surplus is declared in the fund pursuant to 49967
division (H)(4) of this section, the report also shall provide the 49968
total payment that was made from the surplus moneys and identify 49969
the treatment program and expenditure for an alcohol monitoring 49970
device for which that payment was made. The department may require 49971
additional information necessary to complete the comprehensive 49972
statewide alcohol and drug addiction services plan as required by 49973
section 3793.04 of the Revised Code. 49974

(c) If a board is unable to obtain adequate information to 49975
develop the report to submit to the department for a particular 49976
indigent drivers alcohol treatment fund, the board shall submit a 49977
report detailing the effort made in obtaining the information. 49978

(I)(1) Each county shall establish an indigent drivers 49979

interlock and alcohol monitoring fund and a juvenile indigent 49980
drivers interlock and alcohol treatment fund, and each municipal 49981
corporation in which there is a municipal court shall establish an 49982
indigent drivers interlock and alcohol monitoring fund. All 49983
revenue that the general assembly appropriates to the indigent 49984
drivers interlock and alcohol monitoring fund for transfer to a 49985
county indigent drivers interlock and alcohol monitoring fund, a 49986
county juvenile indigent drivers interlock and alcohol monitoring 49987
fund, or a municipal indigent drivers interlock and alcohol 49988
monitoring fund, all portions of license reinstatement fees that 49989
are paid under division (F)(2) of this section and that are 49990
credited under that division to the indigent drivers interlock and 49991
alcohol monitoring fund in the state treasury, and all portions of 49992
fines that are paid under division (G) of section 4511.19 of the 49993
Revised Code and that are credited by division (G)(5)(e) of that 49994
section to the indigent drivers interlock and alcohol monitoring 49995
fund in the state treasury shall be deposited in the appropriate 49996
fund in accordance with division (I)(2) of this section. 49997

(2) That portion of the license reinstatement fee that is 49998
paid under division (F) of this section and that portion of the 49999
fine paid under division (G) of section 4511.19 of the Revised 50000
Code and that is credited under either division to the indigent 50001
drivers interlock and alcohol monitoring fund shall be deposited 50002
into a county indigent drivers interlock and alcohol monitoring 50003
fund, a county juvenile indigent drivers interlock and alcohol 50004
monitoring fund, or a municipal indigent drivers interlock and 50005
alcohol monitoring fund as follows: 50006

(a) If the fee or fine is paid by a person who was charged in 50007
a county court with the violation that resulted in the suspension 50008
or fine, the portion shall be deposited into the county indigent 50009
drivers interlock and alcohol monitoring fund under the control of 50010
that court. 50011

(b) If the fee or fine is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county juvenile indigent drivers interlock and alcohol monitoring fund established in the county served by the court.

(c) If the fee or fine is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers interlock and alcohol monitoring fund under the control of that court.

Sec. 4511.78. (A) As used in this section:

(1) "Mass transit system" means any county transit system, regional transit authority, regional transit commission, municipally owned transportation system, mass transit company operating exclusively within the territorial limits of a municipal corporation, or within such limits and the territorial limits of municipal corporations immediately contiguous to such municipal corporation, and any common passenger carrier ~~certified by the public utilities commission~~, that provides transportation for children to or from a school session or a school function.

(2) "Bus" means every motor vehicle designed for carrying more than nine passengers and used for the transportation of persons, but does not mean any school bus as defined in section 4511.01 of the Revised Code.

(B) Whenever a mass transit system transports children to or from a school session or school function, the mass transit system shall provide for:

(1) Periodic safety inspections of all buses used to provide transportation service. The inspections shall be based on rules adopted by the public utilities commission under Chapters 4921.

and 4923. of the Revised Code to ensure the safety of operation of 50042
~~motor transportation companies and private~~ motor carriers. 50043

(2) The safety training of all drivers operating buses used 50044
to provide transportation service; 50045

(3) The equipping of every bus with outside rear-view mirrors 50046
meeting the motor carrier regulations for bus equipment adopted by 50047
the federal highway administration. No exclusions from this 50048
requirement granted under the federal regulations shall be 50049
considered exclusions for the purposes of this division. 50050

(C) Except as otherwise provided in this division, whoever 50051
violates this section is guilty of a minor misdemeanor. If, within 50052
one year of the offense, the offender previously has been 50053
convicted of or pleaded guilty to one predicate motor vehicle or 50054
traffic offense, whoever violates this section is guilty of a 50055
misdemeanor of the fourth degree. If, within one year of the 50056
offense, the offender previously has been convicted of two or more 50057
predicate motor vehicle or traffic offenses, whoever violates this 50058
section is guilty of a misdemeanor of the third degree. 50059

Sec. 4513.263. (A) As used in this section and in section 50060
4513.99 of the Revised Code: 50061

(1) "Automobile" means any commercial tractor, passenger car, 50062
commercial car, or truck that is required to be factory-equipped 50063
with an occupant restraining device for the operator or any 50064
passenger by regulations adopted by the United States secretary of 50065
transportation pursuant to the "National Traffic and Motor Vehicle 50066
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 50067

(2) "Occupant restraining device" means a seat safety belt, 50068
shoulder belt, harness, or other safety device for restraining a 50069
person who is an operator of or passenger in an automobile and 50070
that satisfies the minimum federal vehicle safety standards 50071

established by the United States department of transportation. 50072

(3) "Passenger" means any person in an automobile, other than 50073
its operator, who is occupying a seating position for which an 50074
occupant restraining device is provided. 50075

(4) "Commercial tractor," "passenger car," and "commercial 50076
car" have the same meanings as in section 4501.01 of the Revised 50077
Code. 50078

(5) "Vehicle" and "motor vehicle," as used in the definitions 50079
of the terms set forth in division (A)(4) of this section, have 50080
the same meanings as in section 4511.01 of the Revised Code. 50081

(6) "Tort action" means a civil action for damages for 50082
injury, death, or loss to person or property. "Tort action" 50083
includes a product liability claim, as defined in section 2307.71 50084
of the Revised Code, and an asbestos claim, as defined in section 50085
2307.91 of the Revised Code, but does not include a civil action 50086
for damages for breach of contract or another agreement between 50087
persons. 50088

(B) No person shall do any of the following: 50089

(1) Operate an automobile on any street or highway unless 50090
that person is wearing all of the available elements of a properly 50091
adjusted occupant restraining device, or operate a school bus that 50092
has an occupant restraining device installed for use in its 50093
operator's seat unless that person is wearing all of the available 50094
elements of the device, as properly adjusted; 50095

(2) Operate an automobile on any street or highway unless 50096
each passenger in the automobile who is subject to the requirement 50097
set forth in division (B)(3) of this section is wearing all of the 50098
available elements of a properly adjusted occupant restraining 50099
device; 50100

(3) Occupy, as a passenger, a seating position on the front 50101

seat of an automobile being operated on any street or highway 50102
unless that person is wearing all of the available elements of a 50103
properly adjusted occupant restraining device; 50104

(4) Operate a taxicab on any street or highway unless all 50105
factory-equipped occupant restraining devices in the taxicab are 50106
maintained in usable form. 50107

(C) Division (B)(3) of this section does not apply to a 50108
person who is required by section 4511.81 of the Revised Code to 50109
be secured in a child restraint device or booster seat. Division 50110
(B)(1) of this section does not apply to a person who is an 50111
employee of the United States postal service or of a newspaper 50112
home delivery service, during any period in which the person is 50113
engaged in the operation of an automobile to deliver mail or 50114
newspapers to addressees. Divisions (B)(1) and (3) of this section 50115
do not apply to a person who has an affidavit signed by a 50116
physician licensed to practice in this state under Chapter 4731. 50117
of the Revised Code or a chiropractor licensed to practice in this 50118
state under Chapter 4734. of the Revised Code that states that the 50119
person has a physical impairment that makes use of an occupant 50120
restraining device impossible or impractical. 50121

(D) Notwithstanding any provision of law to the contrary, no 50122
law enforcement officer shall cause an operator of an automobile 50123
being operated on any street or highway to stop the automobile for 50124
the sole purpose of determining whether a violation of division 50125
(B) of this section has been or is being committed or for the sole 50126
purpose of issuing a ticket, citation, or summons for a violation 50127
of that nature or causing the arrest of or commencing a 50128
prosecution of a person for a violation of that nature, and no law 50129
enforcement officer shall view the interior or visually inspect 50130
any automobile being operated on any street or highway for the 50131
sole purpose of determining whether a violation of that nature has 50132
been or is being committed. 50133

(E) All fines collected for violations of division (B) of this section, or for violations of any ordinance or resolution of a political subdivision that is substantively comparable to that division, shall be forwarded to the treasurer of state for deposit as follows:

~~(1) Eight per cent shall be deposited into the elementary school program fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish and administer elementary school programs that encourage seat safety belt use.~~

~~(2) Two per cent shall be deposited into the occupational licensing and regulatory fund created by section 4743.05 of the Revised Code.~~

~~(3) Thirty six per cent, plus into the state treasury to the credit of the trauma and emergency medical services fund, which is hereby created. In addition, sixty cents of each fee collected under sections 4501.34, 4503.26, 4505.14, 4506.08, and 4509.05, plus on and after October 1, 2009, sixty cents of each fee collected under sections 4505.14 and 4519.63 of the Revised Code as specified in those sections, plus the portion of the driver's license reinstatement fee described in division (F)(2)(g) of section 4511.191 of the Revised Code, plus all fees collected under section 4765.11 of the Revised Code, plus all fines imposed under section 4765.55 of the Revised Code, and plus five per cent of fines and moneys arising from bail forfeitures as directed by section 5503.04 of the Revised Code, also shall be deposited into the trauma and emergency medical services fund, which is hereby created in the state treasury, and. All money deposited into the trauma and emergency medical services fund shall be used by the department of public safety for the administration and operation of the division of emergency medical services and the state board of emergency medical, fire, and transportation services, except~~

~~that the~~ and by the state board of emergency medical, fire, and 50166
transportation services to make grants, in accordance with section 50167
4765.07 of the Revised Code and rules the board adopts under 50168
section 4765.11 of the Revised Code. The director of budget and 50169
management may transfer excess money from the trauma and emergency 50170
medical services fund to the state highway safety fund if the 50171
director of public safety determines that the amount of money in 50172
the trauma and emergency medical services fund exceeds the amount 50173
required to cover such costs incurred by the emergency medical 50174
services agency and the grants made by the state board of 50175
emergency medical, fire, and transportation services and requests 50176
the director of budget and management to make the transfer. 50177

~~(4) Fifty four per cent shall be deposited into the trauma~~ 50178
~~and emergency medical services grants fund, which is hereby~~ 50179
~~created in the state treasury, and shall be used by the state~~ 50180
~~board of emergency medical services to make grants, in accordance~~ 50181
~~with section 4765.07 of the Revised Code and rules the board~~ 50182
~~adopts under section 4765.11 of the Revised Code.~~ 50183

(F)(1) Subject to division (F)(2) of this section, the 50184
failure of a person to wear all of the available elements of a 50185
properly adjusted occupant restraining device in violation of 50186
division (B)(1) or (3) of this section or the failure of a person 50187
to ensure that each minor who is a passenger of an automobile 50188
being operated by that person is wearing all of the available 50189
elements of a properly adjusted occupant restraining device in 50190
violation of division (B)(2) of this section shall not be 50191
considered or used by the trier of fact in a tort action as 50192
evidence of negligence or contributory negligence. But, the trier 50193
of fact may determine based on evidence admitted consistent with 50194
the Ohio Rules of Evidence that the failure contributed to the 50195
harm alleged in the tort action and may diminish a recovery of 50196
compensatory damages that represents noneconomic loss, as defined 50197

in section 2307.011 of the Revised Code, in a tort action that 50198
could have been recovered but for the plaintiff's failure to wear 50199
all of the available elements of a properly adjusted occupant 50200
restraining device. Evidence of that failure shall not be used as 50201
a basis for a criminal prosecution of the person other than a 50202
prosecution for a violation of this section; and shall not be 50203
admissible as evidence in a criminal action involving the person 50204
other than a prosecution for a violation of this section. 50205

(2) If, at the time of an accident involving a passenger car 50206
equipped with occupant restraining devices, any occupant of the 50207
passenger car who sustained injury or death was not wearing an 50208
available occupant restraining device, was not wearing all of the 50209
available elements of such a device, or was not wearing such a 50210
device as properly adjusted, then, consistent with the Rules of 50211
Evidence, the fact that the occupant was not wearing the available 50212
occupant restraining device, was not wearing all of the available 50213
elements of such a device, or was not wearing such a device as 50214
properly adjusted is admissible in evidence in relation to any 50215
claim for relief in a tort action to the extent that the claim for 50216
relief satisfies all of the following: 50217

(a) It seeks to recover damages for injury or death to the 50218
occupant. 50219

(b) The defendant in question is the manufacturer, designer, 50220
distributor, or seller of the passenger car. 50221

(c) The claim for relief against the defendant in question is 50222
that the injury or death sustained by the occupant was enhanced or 50223
aggravated by some design defect in the passenger car or that the 50224
passenger car was not crashworthy. 50225

(G)(1) Whoever violates division (B)(1) of this section shall 50226
be fined thirty dollars. 50227

(2) Whoever violates division (B)(3) of this section shall be 50228

fined twenty dollars. 50229

(3) Except as otherwise provided in this division, whoever 50230
violates division (B)(4) of this section is guilty of a minor 50231
misdemeanor. If the offender previously has been convicted of or 50232
pleaded guilty to a violation of division (B)(4) of this section, 50233
whoever violates division (B)(4) of this section is guilty of a 50234
misdemeanor of the third degree. 50235

Sec. 4513.50. As used in sections 4513.50 to 4513.53 of the 50236
Revised Code: 50237

(A)(1) "Bus" means any vehicle used for the transportation of 50238
passengers that meets at least one of the following: 50239

(a) Was originally designed by the manufacturer to transport 50240
more than fifteen passengers, including the driver; 50241

(b) Either the gross vehicle weight rating or the gross 50242
vehicle weight exceeds ten thousand pounds. 50243

(2) "Bus" does not include a church bus as defined in section 50244
4503.07 of the Revised Code or a school bus unless the church bus 50245
or school bus is used in the transportation of passengers ~~for hire~~ 50246
by a motor ~~transportation company or a common~~ carrier by motor 50247
~~vehicle or by a private motor carrier or contract carrier by motor~~ 50248
~~vehicle.~~ 50249

(3) "Bus" also does not include any of the following: 50250

(a) Any vehicle operated exclusively on a rail or rails; 50251

(b) A trolley bus operated by electric power derived from a 50252
fixed overhead wire furnishing local passenger transportation 50253
similar to street-railway service; 50254

(c) Vehicles owned or leased by government agencies or 50255
political subdivisions. 50256

(B)(1) ~~"Motor transportation company" and "common carrier by~~ 50257

~~motor vehicle~~" have has the same ~~meanings~~ meaning as in section 50258
~~4921.02~~ 4923.01 of the Revised Code. 50259

~~(2) "Private motor carrier" and "contract carrier by motor vehicle" have the same meanings as in section 4923.02 of the Revised Code.~~ 50260
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Sec. 4730.06. (A) The physician assistant policy committee of 50263
the state medical board shall review, and shall submit to the 50264
board recommendations concerning, all of the following: 50265

(1) Requirements for issuance of certificates to practice as 50266
a physician assistant, including the educational requirements that 50267
must be met to receive a certificate to practice; 50268

(2) Existing and proposed rules pertaining to the practice of 50269
physician assistants, the supervisory relationship between 50270
physician assistants and supervising physicians, and the 50271
administration and enforcement of this chapter; 50272

(3) ~~Physician-delegated~~ In accordance with section 4730.38 of 50273
the Revised Code, physician-delegated prescriptive authority for 50274
physician assistants, ~~in accordance with~~ and proposed changes to 50275
the physician assistant formulary the board adopts pursuant to 50276
division (A)(1) of section 4730.38 4730.39 of the Revised Code; 50277

(4) Application procedures and forms for certificates to 50278
practice as a physician assistant, physician supervisory plans, 50279
and supervision agreements; 50280

(5) Fees required by this chapter for issuance and renewal of 50281
certificates to practice as a physician assistant; 50282

(6) Criteria to be included in applications submitted to the 50283
board for approval of physician supervisory plans, including 50284
criteria to be included in applications for approval to delegate 50285
to physician assistants the performance of special services; 50286

(7) Criteria to be included in supervision agreements 50287

submitted to the board for approval and renewal of the board's approval; 50288
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(8) Any issue the board asks the committee to consider. 50290

(B) In addition to the matters that are required to be reviewed under division (A) of this section, the committee may review, and may submit to the board recommendations concerning, either or both of the following: 50291
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(1) Quality assurance activities to be performed by a supervising physician and physician assistant under a quality assurance system established pursuant to division (F) of section 4730.21 of the Revised Code; 50295
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(2) The development and approval of one or more model physician supervisory plans and one or more models for a special services portion of the one or more model physician supervisory plans. The committee may submit recommendations for model plans that reflect various medical specialties. 50299
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(C) The board shall take into consideration all recommendations submitted by the committee. Not later than ninety days after receiving a recommendation from the committee, the board shall approve or disapprove the recommendation and notify the committee of its decision. If a recommendation is disapproved, the board shall inform the committee of its reasons for making that decision. The committee may resubmit the recommendation after addressing the concerns expressed by the board and modifying the disapproved recommendation accordingly. Not later than ninety days after receiving a resubmitted recommendation, the board shall approve or disapprove the recommendation. There is no limit on the number of times the committee may resubmit a recommendation for consideration by the board. 50304
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(D)(1) Except as provided in division (D)(2) of this section, the board may not take action regarding a matter that is subject 50317
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to the committee's review under division (A) or (B) of this 50319
section unless the committee has made a recommendation to the 50320
board concerning the matter. 50321

(2) If the board submits to the committee a request for a 50322
recommendation regarding a matter that is subject to the 50323
committee's review under division (A) or (B) of this section, and 50324
the committee does not provide a recommendation before the 50325
sixty-first day after the request is submitted, the board may take 50326
action regarding the matter without a recommendation. 50327

Sec. 4730.38. (A) ~~Not later than six months after the~~ 50328
~~effective date~~ Except as provided in division (B) of this section, 50329
the physician assistant policy committee of the state medical 50330
board shall, at such times the committee determines to be 50331
necessary, submit to the board ~~its initial~~ recommendations 50332
regarding physician-delegated prescriptive authority for physician 50333
assistants. The committee's recommendations shall address ~~all~~ both 50334
of the following: 50335

(1) Policy and procedures regarding physician-delegated 50336
prescriptive authority, including the issuance of certificates to 50337
prescribe under this chapter; 50338

(2) ~~Subject to the limitations specified in section 4730.40~~ 50339
~~of the Revised Code, a formulary listing the drugs and therapeutic~~ 50340
~~devices by class and specific nomenclature that a supervising~~ 50341
~~physician may include in the physician-delegated prescriptive~~ 50342
~~authority granted to a physician assistant who holds a certificate~~ 50343
~~to prescribe issued under this chapter;~~ 50344

~~(3)~~ Any issue the committee considers necessary to assist the 50345
board in fulfilling its duty to adopt rules governing 50346
physician-delegated prescriptive authority, including the issuance 50347
of certificates to prescribe. 50348

(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 to prescribe under this chapter;

(2) Adopt rules governing physician-delegated prescriptive authority for physician assistants, including the issuance of certificates to prescribe under this chapter. ~~The~~

(B) The board's rules governing physician-delegated prescriptive authority adopted pursuant to division (A)(2) of this section shall be adopted in accordance with Chapter 119. of the Revised Code and shall establish all of the following:

~~(1) Subject to the limitations specified in section 4730.40 of the Revised Code, 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 to prescribe under this chapter;~~

~~(2) Requirements regarding the pharmacology courses that a physician assistant is required to complete to receive a certificate to prescribe;~~

~~(3)(2) Standards and procedures for the issuance and renewal of certificates to prescribe to physician assistants;~~

~~(4)(3) Standards and procedures for the appropriate conduct of the provisional period that a physician assistant is required to complete pursuant to section 4730.45 of the Revised Code and for determining whether a physician assistant has successfully completed the provisional period;~~

~~(5)(4) A specific prohibition against prescribing any drug or device to perform or induce an abortion;~~

~~(6)(5) Standards and procedures to be followed by a physician assistant in personally furnishing samples of drugs or complete or partial supplies of drugs to patients under section 4730.43 of the Revised Code;~~

~~(7)(6) Any other requirements the board considers necessary to implement the provisions of this chapter regarding physician-delegated prescriptive authority and the issuance of certificates to prescribe.~~

~~(B)(C)(1) After adopting the initial rules considering recommendations submitted by the physician assistant policy committee pursuant to sections 4730.06 and 4730.38 of the Revised Code, the board shall conduct an annual review either or both of the rules. Based following, as appropriate according to the~~

submitted recommendations: 50411

(a) The formulary the board adopts under division (A)(1) of this section; 50412
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(b) The rules the board adopts under division (A)(2) of this section regarding physician-delegated prescriptive authority. 50414
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(2) Based on its review, the board shall make any necessary modifications to the formulary or rules. 50416
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~~(C) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. When adopting the initial rules, the board shall consider the recommendations of the physician assistant policy committee submitted pursuant to division (A) of section 4730.38 of the Revised Code. When making any modifications to the rules subsequent to its annual review of the rules, the board shall consider the committee's recommendations submitted pursuant to division (B) of section 4730.38 of the Revised Code.~~ 50418
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Sec. 4730.40. (A) Subject to ~~divisions~~ division (B) and ~~(C)~~ of this section, the physician assistant formulary ~~established adopted~~ by the state medical board ~~in rules adopted~~ under section 4730.39 of the Revised Code ~~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~~ may include any or all of the following drugs: 50427
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(1) Schedule II, III, IV, and V controlled substances; 50436

(2) Drugs that under state or federal law may be dispensed only pursuant to a prescription by a licensed health professional authorized to prescribe drugs, as defined in section 4729.01 of the Revised Code; 50437
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(3) Any drug that is not a dangerous drug, as defined in section 4729.01 of the Revised Code. 50441
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(B) The formulary ~~established in the board's rules adopted by the board~~ shall not include, and shall specify that it does not include, ~~the following:~~ 50443
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~~(1) Any schedule II controlled substance;~~ 50446

~~(2) Any any drug or device used to perform or induce an abortion.~~ 50447
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~~(C) When adopting rules establishing the initial formulary, the board shall include provisions ensuring that a physician assistant who holds a certificate to prescribe issued under this chapter may be granted physician-delegated prescriptive authority for all drugs and therapeutic devices that may be prescribed on the effective date of the rules by a holder of a certificate to prescribe issued by the board of nursing under Chapter 4723. of the Revised Code, with the exception of schedule II controlled substances. To the extent permitted by division (A) of this section, the initial formulary may include additional drugs or therapeutic devices.~~ 50449
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Sec. 4730.41. (A) A certificate to prescribe issued under this chapter authorizes a physician assistant to prescribe and personally furnish drugs and therapeutic devices in the exercise of physician-delegated prescriptive authority. 50460
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(B) In exercising physician-delegated prescriptive authority, a physician assistant is subject to all of the following: 50464
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(1) The physician assistant shall exercise physician-delegated prescriptive authority only to the extent that the physician supervising the physician assistant has granted that authority. 50466
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(2) The physician assistant shall comply with all conditions 50470

placed on the physician-delegated prescriptive authority, as 50471
specified by the supervising physician who is supervising the 50472
physician assistant in the exercise of physician-delegated 50473
prescriptive authority. 50474

(3) If the physician assistant possesses physician-delegated 50475
prescriptive authority for controlled substances, the physician 50476
assistant shall register with the federal drug enforcement 50477
administration. 50478

(4) If the physician assistant possesses physician-delegated 50479
prescriptive authority for schedule II controlled substances, the 50480
physician assistant shall comply with section 4730.411 of the 50481
Revised Code. 50482

Sec. 4730.411. (A) Except as provided in division (B) or (C) 50483
of this section, a physician assistant may prescribe to a patient 50484
a schedule II controlled substance only if all of the following 50485
are the case: 50486

(1) The patient is in a terminal condition, as defined in 50487
section 2133.01 of the Revised Code. 50488

(2) The physician assistant's supervising physician initially 50489
prescribed the substance for the patient. 50490

(3) The prescription is for an amount that does not exceed 50491
the amount necessary for the patient's use in a single, 50492
twenty-four-hour period. 50493

(B) The restrictions on prescriptive authority in division 50494
(A) of this section do not apply if a physician assistant issues 50495
the prescription to the patient from any of the following 50496
locations: 50497

(1) A hospital registered under section 3701.07 of the 50498
Revised Code; 50499

(2) An entity owned or controlled, in whole or in part, by a 50500

hospital or by an entity that owns or controls, in whole or in part, one or more hospitals; 50501
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(3) A health care facility operated by the department of mental health or the department of developmental disabilities; 50503
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(4) 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; 50505
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(5) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program; 50508
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(6) A hospice care program, as defined in section 3712.01 of the Revised Code; 50511
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(7) A community mental health agency, as defined in section 5122.01 of the Revised Code; 50513
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(8) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code; 50515
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(9) A freestanding birthing center, as defined in section 3702.51 of the Revised Code; 50517
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(10) A federally qualified health center, as defined in section 3701.047 of the Revised Code; 50519
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(11) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code; 50521
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(12) A health care office or facility operated by 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; 50523
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(13) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the physician assistant has entered into 50527
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a supervisory agreement with at least one of the physician owners 50531
who practices primarily at that site. 50532

(C) A physician assistant shall not issue to a patient a 50533
prescription for a schedule II controlled substance from a 50534
convenience care clinic even if the convenience care clinic is 50535
owned or operated by an entity specified in division (B) of this 50536
section. 50537

(D) A pharmacist who acts in good faith reliance on a 50538
prescription issued by a physician assistant under division (B) of 50539
this section is not liable for or subject to any of the following 50540
for relying on the prescription: damages in any civil action, 50541
prosecution in any criminal proceeding, or professional 50542
disciplinary action by the state board of pharmacy under Chapter 50543
4729. of the Revised Code. 50544

Sec. 4730.42. (A) In granting physician-delegated 50545
prescriptive authority to a particular physician assistant who 50546
holds a certificate to prescribe issued under this chapter, the 50547
supervising physician is subject to all of the following: 50548

(1) The supervising physician shall not grant 50549
physician-delegated prescriptive authority for any drug or 50550
therapeutic device that is not listed on the physician assistant 50551
formulary ~~established in rules~~ adopted under section 4730.39 of 50552
the Revised Code as a drug or therapeutic device that may be 50553
included in the physician-delegated prescriptive authority granted 50554
to a physician assistant. 50555

(2) The supervising physician shall not grant 50556
physician-delegated prescriptive authority for any drug or device 50557
that may be used to perform or induce an abortion. 50558

(3) The supervising physician shall not grant 50559
physician-delegated prescriptive authority in a manner that 50560

exceeds the supervising physician's prescriptive authority. 50561

(4) The supervising physician shall supervise the physician 50562
assistant in accordance with all of the following: 50563

(a) The supervision requirements specified in section 4730.21 50564
of the Revised Code and, in the case of supervision provided 50565
during a provisional period of physician-delegated prescriptive 50566
authority, the supervision requirements specified in section 50567
4730.45 of the Revised Code; 50568

(b) The physician supervisory plan approved for the 50569
supervising physician or the policies of the health care facility 50570
in which the physician and physician assistant are practicing; 50571

(c) The supervision agreement approved under section 4730.19 50572
of the Revised Code that applies to the supervising physician and 50573
the physician assistant. 50574

(B)(1) The supervising physician of a physician assistant may 50575
place conditions on the physician-delegated prescriptive authority 50576
granted to the physician assistant. If conditions are placed on 50577
that authority, the supervising physician shall maintain a written 50578
record of the conditions and make the record available to the 50579
state medical board on request. 50580

(2) The conditions that a supervising physician may place on 50581
the physician-delegated prescriptive authority granted to a 50582
physician assistant include the following: 50583

(a) Identification by class and specific generic nomenclature 50584
of drugs and therapeutic devices that the physician chooses not to 50585
permit the physician assistant to prescribe; 50586

(b) Limitations on the dosage units or refills that the 50587
physician assistant is authorized to prescribe; 50588

(c) Specification of circumstances under which the physician 50589
assistant is required to refer patients to the supervising 50590

physician or another physician when exercising physician-delegated prescriptive authority; 50591
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(d) Responsibilities to be fulfilled by the physician in supervising the physician assistant that are not otherwise specified in the physician supervisory plan or otherwise required by this chapter. 50593
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Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may revoke or may refuse to grant a certificate to a person found by the board to have committed fraud during the administration of the examination for a certificate to practice or to have committed fraud, misrepresentation, or deception in applying for or securing any certificate to practice or certificate of registration issued by the board. 50597
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(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons: 50605
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(1) Permitting one's name or one's certificate to practice or certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given; 50611
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(2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease; 50615
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(3) Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate 50619
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therapeutic purposes or a plea of guilty to, a judicial finding of 50621
guilt of, or a judicial finding of eligibility for intervention in 50622
lieu of conviction of, a violation of any federal or state law 50623
regulating the possession, distribution, or use of any drug; 50624

(4) Willfully betraying a professional confidence. 50625

For purposes of this division, "willfully betraying a 50626
professional confidence" does not include providing any 50627
information, documents, or reports to a child fatality review 50628
board under sections 307.621 to 307.629 of the Revised Code and 50629
does not include the making of a report of an employee's use of a 50630
drug of abuse, or a report of a condition of an employee other 50631
than one involving the use of a drug of abuse, to the employer of 50632
the employee as described in division (B) of section 2305.33 of 50633
the Revised Code. Nothing in this division affects the immunity 50634
from civil liability conferred by that section upon a physician 50635
who makes either type of report in accordance with division (B) of 50636
that section. As used in this division, "employee," "employer," 50637
and "physician" have the same meanings as in section 2305.33 of 50638
the Revised Code. 50639

(5) Making a false, fraudulent, deceptive, or misleading 50640
statement in the solicitation of or advertising for patients; in 50641
relation to the practice of medicine and surgery, osteopathic 50642
medicine and surgery, podiatric medicine and surgery, or a limited 50643
branch of medicine; or in securing or attempting to secure any 50644
certificate to practice or certificate of registration issued by 50645
the board. 50646

As used in this division, "false, fraudulent, deceptive, or 50647
misleading statement" means a statement that includes a 50648
misrepresentation of fact, is likely to mislead or deceive because 50649
of a failure to disclose material facts, is intended or is likely 50650
to create false or unjustified expectations of favorable results, 50651
or includes representations or implications that in reasonable 50652

probability will cause an ordinarily prudent person to 50653
misunderstand or be deceived. 50654

(6) A departure from, or the failure to conform to, minimal 50655
standards of care of similar practitioners under the same or 50656
similar circumstances, whether or not actual injury to a patient 50657
is established; 50658

(7) Representing, with the purpose of obtaining compensation 50659
or other advantage as personal gain or for any other person, that 50660
an incurable disease or injury, or other incurable condition, can 50661
be permanently cured; 50662

(8) The obtaining of, or attempting to obtain, money or 50663
anything of value by fraudulent misrepresentations in the course 50664
of practice; 50665

(9) A plea of guilty to, a judicial finding of guilt of, or a 50666
judicial finding of eligibility for intervention in lieu of 50667
conviction for, a felony; 50668

(10) Commission of an act that constitutes a felony in this 50669
state, regardless of the jurisdiction in which the act was 50670
committed; 50671

(11) A plea of guilty to, a judicial finding of guilt of, or 50672
a judicial finding of eligibility for intervention in lieu of 50673
conviction for, a misdemeanor committed in the course of practice; 50674

(12) Commission of an act in the course of practice that 50675
constitutes a misdemeanor in this state, regardless of the 50676
jurisdiction in which the act was committed; 50677

(13) A plea of guilty to, a judicial finding of guilt of, or 50678
a judicial finding of eligibility for intervention in lieu of 50679
conviction for, a misdemeanor involving moral turpitude; 50680

(14) Commission of an act involving moral turpitude that 50681
constitutes a misdemeanor in this state, regardless of the 50682

jurisdiction in which the act was committed; 50683

(15) Violation of the conditions of limitation placed by the 50684
board upon a certificate to practice; 50685

(16) Failure to pay license renewal fees specified in this 50686
chapter; 50687

(17) Except as authorized in section 4731.31 of the Revised 50688
Code, engaging in the division of fees for referral of patients, 50689
or the receiving of a thing of value in return for a specific 50690
referral of a patient to utilize a particular service or business; 50691

(18) Subject to section 4731.226 of the Revised Code, 50692
violation of any provision of a code of ethics of the American 50693
medical association, the American osteopathic association, the 50694
American podiatric medical association, or any other national 50695
professional organizations that the board specifies by rule. The 50696
state medical board shall obtain and keep on file current copies 50697
of the codes of ethics of the various national professional 50698
organizations. The individual whose certificate is being suspended 50699
or revoked shall not be found to have violated any provision of a 50700
code of ethics of an organization not appropriate to the 50701
individual's profession. 50702

For purposes of this division, a "provision of a code of 50703
ethics of a national professional organization" does not include 50704
any provision that would preclude the making of a report by a 50705
physician of an employee's use of a drug of abuse, or of a 50706
condition of an employee other than one involving the use of a 50707
drug of abuse, to the employer of the employee as described in 50708
division (B) of section 2305.33 of the Revised Code. Nothing in 50709
this division affects the immunity from civil liability conferred 50710
by that section upon a physician who makes either type of report 50711
in accordance with division (B) of that section. As used in this 50712
division, "employee," "employer," and "physician" have the same 50713

meanings as in section 2305.33 of the Revised Code. 50714

(19) Inability to practice according to acceptable and 50715
prevailing standards of care by reason of mental illness or 50716
physical illness, including, but not limited to, physical 50717
deterioration that adversely affects cognitive, motor, or 50718
perceptive skills. 50719

In enforcing this division, the board, upon a showing of a 50720
possible violation, may compel any individual authorized to 50721
practice by this chapter or who has submitted an application 50722
pursuant to this chapter to submit to a mental examination, 50723
physical examination, including an HIV test, or both a mental and 50724
a physical examination. The expense of the examination is the 50725
responsibility of the individual compelled to be examined. Failure 50726
to submit to a mental or physical examination or consent to an HIV 50727
test ordered by the board constitutes an admission of the 50728
allegations against the individual unless the failure is due to 50729
circumstances beyond the individual's control, and a default and 50730
final order may be entered without the taking of testimony or 50731
presentation of evidence. If the board finds an individual unable 50732
to practice because of the reasons set forth in this division, the 50733
board shall require the individual to submit to care, counseling, 50734
or treatment by physicians approved or designated by the board, as 50735
a condition for initial, continued, reinstated, or renewed 50736
authority to practice. An individual affected under this division 50737
shall be afforded an opportunity to demonstrate to the board the 50738
ability to resume practice in compliance with acceptable and 50739
prevailing standards under the provisions of the individual's 50740
certificate. For the purpose of this division, any individual who 50741
applies for or receives a certificate to practice under this 50742
chapter accepts the privilege of practicing in this state and, by 50743
so doing, shall be deemed to have given consent to submit to a 50744
mental or physical examination when directed to do so in writing 50745

by the board, and to have waived all objections to the 50746
admissibility of testimony or examination reports that constitute 50747
a privileged communication. 50748

(20) Except when civil penalties are imposed under section 50749
4731.225 or 4731.281 of the Revised Code, and subject to section 50750
4731.226 of the Revised Code, violating or attempting to violate, 50751
directly or indirectly, or assisting in or abetting the violation 50752
of, or conspiring to violate, any provisions of this chapter or 50753
any rule promulgated by the board. 50754

This division does not apply to a violation or attempted 50755
violation of, assisting in or abetting the violation of, or a 50756
conspiracy to violate, any provision of this chapter or any rule 50757
adopted by the board that would preclude the making of a report by 50758
a physician of an employee's use of a drug of abuse, or of a 50759
condition of an employee other than one involving the use of a 50760
drug of abuse, to the employer of the employee as described in 50761
division (B) of section 2305.33 of the Revised Code. Nothing in 50762
this division affects the immunity from civil liability conferred 50763
by that section upon a physician who makes either type of report 50764
in accordance with division (B) of that section. As used in this 50765
division, "employee," "employer," and "physician" have the same 50766
meanings as in section 2305.33 of the Revised Code. 50767

(21) The violation of section 3701.79 of the Revised Code or 50768
of any abortion rule adopted by the ~~public~~ director of health 50769
~~council~~ pursuant to section 3701.341 of the Revised Code; 50770

(22) Any of the following actions taken by an agency 50771
responsible for authorizing, certifying, or regulating an 50772
individual to practice a health care occupation or provide health 50773
care services in this state or another jurisdiction, for any 50774
reason other than the nonpayment of fees: the limitation, 50775
revocation, or suspension of an individual's license to practice; 50776
acceptance of an individual's license surrender; denial of a 50777

license; refusal to renew or reinstate a license; imposition of 50778
probation; or issuance of an order of censure or other reprimand; 50779

(23) The violation of section 2919.12 of the Revised Code or 50780
the performance or inducement of an abortion upon a pregnant woman 50781
with actual knowledge that the conditions specified in division 50782
(B) of section 2317.56 of the Revised Code have not been satisfied 50783
or with a heedless indifference as to whether those conditions 50784
have been satisfied, unless an affirmative defense as specified in 50785
division (H)(2) of that section would apply in a civil action 50786
authorized by division (H)(1) of that section; 50787

(24) The revocation, suspension, restriction, reduction, or 50788
termination of clinical privileges by the United States department 50789
of defense or department of veterans affairs or the termination or 50790
suspension of a certificate of registration to prescribe drugs by 50791
the drug enforcement administration of the United States 50792
department of justice; 50793

(25) Termination or suspension from participation in the 50794
medicare or medicaid programs by the department of health and 50795
human services or other responsible agency for any act or acts 50796
that also would constitute a violation of division (B)(2), (3), 50797
(6), (8), or (19) of this section; 50798

(26) Impairment of ability to practice according to 50799
acceptable and prevailing standards of care because of habitual or 50800
excessive use or abuse of drugs, alcohol, or other substances that 50801
impair ability to practice. 50802

For the purposes of this division, any individual authorized 50803
to practice by this chapter accepts the privilege of practicing in 50804
this state subject to supervision by the board. By filing an 50805
application for or holding a certificate to practice under this 50806
chapter, an individual shall be deemed to have given consent to 50807
submit to a mental or physical examination when ordered to do so 50808

by the board in writing, and to have waived all objections to the 50809
admissibility of testimony or examination reports that constitute 50810
privileged communications. 50811

If it has reason to believe that any individual authorized to 50812
practice by this chapter or any applicant for certification to 50813
practice suffers such impairment, the board may compel the 50814
individual to submit to a mental or physical examination, or both. 50815
The expense of the examination is the responsibility of the 50816
individual compelled to be examined. Any mental or physical 50817
examination required under this division shall be undertaken by a 50818
treatment provider or physician who is qualified to conduct the 50819
examination and who is chosen by the board. 50820

Failure to submit to a mental or physical examination ordered 50821
by the board constitutes an admission of the allegations against 50822
the individual unless the failure is due to circumstances beyond 50823
the individual's control, and a default and final order may be 50824
entered without the taking of testimony or presentation of 50825
evidence. If the board determines that the individual's ability to 50826
practice is impaired, the board shall suspend the individual's 50827
certificate or deny the individual's application and shall require 50828
the individual, as a condition for initial, continued, reinstated, 50829
or renewed certification to practice, to submit to treatment. 50830

Before being eligible to apply for reinstatement of a 50831
certificate suspended under this division, the impaired 50832
practitioner shall demonstrate to the board the ability to resume 50833
practice in compliance with acceptable and prevailing standards of 50834
care under the provisions of the practitioner's certificate. The 50835
demonstration shall include, but shall not be limited to, the 50836
following: 50837

(a) Certification from a treatment provider approved under 50838
section 4731.25 of the Revised Code that the individual has 50839
successfully completed any required inpatient treatment; 50840

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement; 50841
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(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination. 50843
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The board may reinstate a certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement. 50849
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When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety. 50852
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(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code; 50861
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(28) Except as provided in division (N) of this section: 50863

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that individual; 50864
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(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, 50870
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pursuant to a health insurance or health care policy, contract, or 50872
plan that covers the individual's services, otherwise would be 50873
required to pay. 50874

(29) Failure to use universal blood and body fluid 50875
precautions established by rules adopted under section 4731.051 of 50876
the Revised Code; 50877

(30) Failure to provide notice to, and receive acknowledgment 50878
of the notice from, a patient when required by section 4731.143 of 50879
the Revised Code prior to providing nonemergency professional 50880
services, or failure to maintain that notice in the patient's 50881
file; 50882

(31) Failure of a physician supervising a physician assistant 50883
to maintain supervision in accordance with the requirements of 50884
Chapter 4730. of the Revised Code and the rules adopted under that 50885
chapter; 50886

(32) Failure of a physician or podiatrist to enter into a 50887
standard care arrangement with a clinical nurse specialist, 50888
certified nurse-midwife, or certified nurse practitioner with whom 50889
the physician or podiatrist is in collaboration pursuant to 50890
section 4731.27 of the Revised Code or failure to fulfill the 50891
responsibilities of collaboration after entering into a standard 50892
care arrangement; 50893

(33) Failure to comply with the terms of a consult agreement 50894
entered into with a pharmacist pursuant to section 4729.39 of the 50895
Revised Code; 50896

(34) Failure to cooperate in an investigation conducted by 50897
the board under division (F) of this section, including failure to 50898
comply with a subpoena or order issued by the board or failure to 50899
answer truthfully a question presented by the board at a 50900
deposition or in written interrogatories, except that failure to 50901
cooperate with an investigation shall not constitute grounds for 50902

discipline under this section if a court of competent jurisdiction 50903
has issued an order that either quashes a subpoena or permits the 50904
individual to withhold the testimony or evidence in issue; 50905

(35) Failure to supervise an acupuncturist in accordance with 50906
Chapter 4762. of the Revised Code and the board's rules for 50907
supervision of an acupuncturist; 50908

(36) Failure to supervise an anesthesiologist assistant in 50909
accordance with Chapter 4760. of the Revised Code and the board's 50910
rules for supervision of an anesthesiologist assistant; 50911

(37) Assisting suicide as defined in section 3795.01 of the 50912
Revised Code; 50913

(38) Failure to comply with the requirements of section 50914
2317.561 of the Revised Code; 50915

(39) Failure to supervise a radiologist assistant in 50916
accordance with Chapter 4774. of the Revised Code and the board's 50917
rules for supervision of radiologist assistants; 50918

(40) Performing or inducing an abortion at an office or 50919
facility with knowledge that the office or facility fails to post 50920
the notice required under section 3701.791 of the Revised Code; 50921

(41) Failure to comply with the standards and procedures 50922
established in rules under section 4731.054 of the Revised Code 50923
for the operation of or the provision of care at a pain management 50924
clinic; 50925

(42) Failure to comply with the standards and procedures 50926
established in rules under section 4731.054 of the Revised Code 50927
for providing supervision, direction, and control of individuals 50928
at a pain management clinic; 50929

(43) Failure to comply with the requirements of section 50930
4729.79 of the Revised Code, unless the state board of pharmacy no 50931
longer maintains a drug database pursuant to section 4729.75 of 50932

the Revised Code; 50933

~~(41)~~(44) Failure to comply with the requirements of section 50934
2919.171 of the Revised Code or failure to submit to the 50935
department of health in accordance with a court order a complete 50936
report as described in section 2919.171 of the Revised Code. 50937

(C) Disciplinary actions taken by the board under divisions 50938
(A) and (B) of this section shall be taken pursuant to an 50939
adjudication under Chapter 119. of the Revised Code, except that 50940
in lieu of an adjudication, the board may enter into a consent 50941
agreement with an individual to resolve an allegation of a 50942
violation of this chapter or any rule adopted under it. A consent 50943
agreement, when ratified by an affirmative vote of not fewer than 50944
six members of the board, shall constitute the findings and order 50945
of the board with respect to the matter addressed in the 50946
agreement. If the board refuses to ratify a consent agreement, the 50947
admissions and findings contained in the consent agreement shall 50948
be of no force or effect. 50949

A telephone conference call may be utilized for ratification 50950
of a consent agreement that revokes or suspends an individual's 50951
certificate to practice. The telephone conference call shall be 50952
considered a special meeting under division (F) of section 121.22 50953
of the Revised Code. 50954

If the board takes disciplinary action against an individual 50955
under division (B) of this section for a second or subsequent plea 50956
of guilty to, or judicial finding of guilt of, a violation of 50957
section 2919.123 of the Revised Code, the disciplinary action 50958
shall consist of a suspension of the individual's certificate to 50959
practice for a period of at least one year or, if determined 50960
appropriate by the board, a more serious sanction involving the 50961
individual's certificate to practice. Any consent agreement 50962
entered into under this division with an individual that pertains 50963
to a second or subsequent plea of guilty to, or judicial finding 50964

of guilt of, a violation of that section shall provide for a 50965
suspension of the individual's certificate to practice for a 50966
period of at least one year or, if determined appropriate by the 50967
board, a more serious sanction involving the individual's 50968
certificate to practice. 50969

(D) For purposes of divisions (B)(10), (12), and (14) of this 50970
section, the commission of the act may be established by a finding 50971
by the board, pursuant to an adjudication under Chapter 119. of 50972
the Revised Code, that the individual committed the act. The board 50973
does not have jurisdiction under those divisions if the trial 50974
court renders a final judgment in the individual's favor and that 50975
judgment is based upon an adjudication on the merits. The board 50976
has jurisdiction under those divisions if the trial court issues 50977
an order of dismissal upon technical or procedural grounds. 50978

(E) The sealing of conviction records by any court shall have 50979
no effect upon a prior board order entered under this section or 50980
upon the board's jurisdiction to take action under this section 50981
if, based upon a plea of guilty, a judicial finding of guilt, or a 50982
judicial finding of eligibility for intervention in lieu of 50983
conviction, the board issued a notice of opportunity for a hearing 50984
prior to the court's order to seal the records. The board shall 50985
not be required to seal, destroy, redact, or otherwise modify its 50986
records to reflect the court's sealing of conviction records. 50987

(F)(1) The board shall investigate evidence that appears to 50988
show that a person has violated any provision of this chapter or 50989
any rule adopted under it. Any person may report to the board in a 50990
signed writing any information that the person may have that 50991
appears to show a violation of any provision of this chapter or 50992
any rule adopted under it. In the absence of bad faith, any person 50993
who reports information of that nature or who testifies before the 50994
board in any adjudication conducted under Chapter 119. of the 50995
Revised Code shall not be liable in damages in a civil action as a 50996

result of the report or testimony. Each complaint or allegation of 50997
a violation received by the board shall be assigned a case number 50998
and shall be recorded by the board. 50999

(2) Investigations of alleged violations of this chapter or 51000
any rule adopted under it shall be supervised by the supervising 51001
member elected by the board in accordance with section 4731.02 of 51002
the Revised Code and by the secretary as provided in section 51003
4731.39 of the Revised Code. The president may designate another 51004
member of the board to supervise the investigation in place of the 51005
supervising member. No member of the board who supervises the 51006
investigation of a case shall participate in further adjudication 51007
of the case. 51008

(3) In investigating a possible violation of this chapter or 51009
any rule adopted under this chapter, the board may administer 51010
oaths, order the taking of depositions, inspect and copy any 51011
books, accounts, papers, records, or documents, issue subpoenas, 51012
and compel the attendance of witnesses and production of books, 51013
accounts, papers, records, documents, and testimony, except that a 51014
subpoena for patient record information shall not be issued 51015
without consultation with the attorney general's office and 51016
approval of the secretary and supervising member of the board. 51017
Before issuance of a subpoena for patient record information, the 51018
secretary and supervising member shall determine whether there is 51019
probable cause to believe that the complaint filed alleges a 51020
violation of this chapter or any rule adopted under it and that 51021
the records sought are relevant to the alleged violation and 51022
material to the investigation. The subpoena may apply only to 51023
records that cover a reasonable period of time surrounding the 51024
alleged violation. 51025

On failure to comply with any subpoena issued by the board 51026
and after reasonable notice to the person being subpoenaed, the 51027
board may move for an order compelling the production of persons 51028

or records pursuant to the Rules of Civil Procedure. 51029

A subpoena issued by the board may be served by a sheriff, 51030
the sheriff's deputy, or a board employee designated by the board. 51031
Service of a subpoena issued by the board may be made by 51032
delivering a copy of the subpoena to the person named therein, 51033
reading it to the person, or leaving it at the person's usual 51034
place of residence. When the person being served is a person whose 51035
practice is authorized by this chapter, service of the subpoena 51036
may be made by certified mail, restricted delivery, return receipt 51037
requested, and the subpoena shall be deemed served on the date 51038
delivery is made or the date the person refuses to accept 51039
delivery. 51040

A sheriff's deputy who serves a subpoena shall receive the 51041
same fees as a sheriff. Each witness who appears before the board 51042
in obedience to a subpoena shall receive the fees and mileage 51043
provided for under section 119.094 of the Revised Code. 51044

(4) All hearings and investigations of the board shall be 51045
considered civil actions for the purposes of section 2305.252 of 51046
the Revised Code. 51047

(5) Information received by the board pursuant to an 51048
investigation is confidential and not subject to discovery in any 51049
civil action. 51050

The board shall conduct all investigations and proceedings in 51051
a manner that protects the confidentiality of patients and persons 51052
who file complaints with the board. The board shall not make 51053
public the names or any other identifying information about 51054
patients or complainants unless proper consent is given or, in the 51055
case of a patient, a waiver of the patient privilege exists under 51056
division (B) of section 2317.02 of the Revised Code, except that 51057
consent or a waiver of that nature is not required if the board 51058
possesses reliable and substantial evidence that no bona fide 51059

physician-patient relationship exists. 51060

The board may share any information it receives pursuant to 51061
an investigation, including patient records and patient record 51062
information, with law enforcement agencies, other licensing 51063
boards, and other governmental agencies that are prosecuting, 51064
adjudicating, or investigating alleged violations of statutes or 51065
administrative rules. An agency or board that receives the 51066
information shall comply with the same requirements regarding 51067
confidentiality as those with which the state medical board must 51068
comply, notwithstanding any conflicting provision of the Revised 51069
Code or procedure of the agency or board that applies when it is 51070
dealing with other information in its possession. In a judicial 51071
proceeding, the information may be admitted into evidence only in 51072
accordance with the Rules of Evidence, but the court shall require 51073
that appropriate measures are taken to ensure that confidentiality 51074
is maintained with respect to any part of the information that 51075
contains names or other identifying information about patients or 51076
complainants whose confidentiality was protected by the state 51077
medical board when the information was in the board's possession. 51078
Measures to ensure confidentiality that may be taken by the court 51079
include sealing its records or deleting specific information from 51080
its records. 51081

(6) On a quarterly basis, the board shall prepare a report 51082
that documents the disposition of all cases during the preceding 51083
three months. The report shall contain the following information 51084
for each case with which the board has completed its activities: 51085

(a) The case number assigned to the complaint or alleged 51086
violation; 51087

(b) The type of certificate to practice, if any, held by the 51088
individual against whom the complaint is directed; 51089

(c) A description of the allegations contained in the 51090

complaint; 51091

(d) The disposition of the case. 51092

The report shall state how many cases are still pending and 51093
shall be prepared in a manner that protects the identity of each 51094
person involved in each case. The report shall be a public record 51095
under section 149.43 of the Revised Code. 51096

(G) If the secretary and supervising member determine both of 51097
the following, they may recommend that the board suspend an 51098
individual's certificate to practice without a prior hearing: 51099

(1) That there is clear and convincing evidence that an 51100
individual has violated division (B) of this section; 51101

(2) That the individual's continued practice presents a 51102
danger of immediate and serious harm to the public. 51103

Written allegations shall be prepared for consideration by 51104
the board. The board, upon review of those allegations and by an 51105
affirmative vote of not fewer than six of its members, excluding 51106
the secretary and supervising member, may suspend a certificate 51107
without a prior hearing. A telephone conference call may be 51108
utilized for reviewing the allegations and taking the vote on the 51109
summary suspension. 51110

The board shall issue a written order of suspension by 51111
certified mail or in person in accordance with section 119.07 of 51112
the Revised Code. The order shall not be subject to suspension by 51113
the court during pendency of any appeal filed under section 119.12 51114
of the Revised Code. If the individual subject to the summary 51115
suspension requests an adjudicatory hearing by the board, the date 51116
set for the hearing shall be within fifteen days, but not earlier 51117
than seven days, after the individual requests the hearing, unless 51118
otherwise agreed to by both the board and the individual. 51119

Any summary suspension imposed under this division shall 51120

remain in effect, unless reversed on appeal, until a final 51121
adjudicative order issued by the board pursuant to this section 51122
and Chapter 119. of the Revised Code becomes effective. The board 51123
shall issue its final adjudicative order within seventy-five days 51124
after completion of its hearing. A failure to issue the order 51125
within seventy-five days shall result in dissolution of the 51126
summary suspension order but shall not invalidate any subsequent, 51127
final adjudicative order. 51128

(H) If the board takes action under division (B)(9), (11), or 51129
(13) of this section and the judicial finding of guilt, guilty 51130
plea, or judicial finding of eligibility for intervention in lieu 51131
of conviction is overturned on appeal, upon exhaustion of the 51132
criminal appeal, a petition for reconsideration of the order may 51133
be filed with the board along with appropriate court documents. 51134
Upon receipt of a petition of that nature and supporting court 51135
documents, the board shall reinstate the individual's certificate 51136
to practice. The board may then hold an adjudication under Chapter 51137
119. of the Revised Code to determine whether the individual 51138
committed the act in question. Notice of an opportunity for a 51139
hearing shall be given in accordance with Chapter 119. of the 51140
Revised Code. If the board finds, pursuant to an adjudication held 51141
under this division, that the individual committed the act or if 51142
no hearing is requested, the board may order any of the sanctions 51143
identified under division (B) of this section. 51144

(I) The certificate to practice issued to an individual under 51145
this chapter and the individual's practice in this state are 51146
automatically suspended as of the date of the individual's second 51147
or subsequent plea of guilty to, or judicial finding of guilt of, 51148
a violation of section 2919.123 of the Revised Code, or the date 51149
the individual pleads guilty to, is found by a judge or jury to be 51150
guilty of, or is subject to a judicial finding of eligibility for 51151
intervention in lieu of conviction in this state or treatment or 51152

intervention in lieu of conviction in another jurisdiction for any 51153
of the following criminal offenses in this state or a 51154
substantially equivalent criminal offense in another jurisdiction: 51155
aggravated murder, murder, voluntary manslaughter, felonious 51156
assault, kidnapping, rape, sexual battery, gross sexual 51157
imposition, aggravated arson, aggravated robbery, or aggravated 51158
burglary. Continued practice after suspension shall be considered 51159
practicing without a certificate. 51160

The board shall notify the individual subject to the 51161
suspension by certified mail or in person in accordance with 51162
section 119.07 of the Revised Code. If an individual whose 51163
certificate is automatically suspended under this division fails 51164
to make a timely request for an adjudication under Chapter 119. of 51165
the Revised Code, the board shall do whichever of the following is 51166
applicable: 51167

(1) If the automatic suspension under this division is for a 51168
second or subsequent plea of guilty to, or judicial finding of 51169
guilt of, a violation of section 2919.123 of the Revised Code, the 51170
board shall enter an order suspending the individual's certificate 51171
to practice for a period of at least one year or, if determined 51172
appropriate by the board, imposing a more serious sanction 51173
involving the individual's certificate to practice. 51174

(2) In all circumstances in which division (I)(1) of this 51175
section does not apply, enter a final order permanently revoking 51176
the individual's certificate to practice. 51177

(J) If the board is required by Chapter 119. of the Revised 51178
Code to give notice of an opportunity for a hearing and if the 51179
individual subject to the notice does not timely request a hearing 51180
in accordance with section 119.07 of the Revised Code, the board 51181
is not required to hold a hearing, but may adopt, by an 51182
affirmative vote of not fewer than six of its members, a final 51183
order that contains the board's findings. In that final order, the 51184

board may order any of the sanctions identified under division (A) 51185
or (B) of this section. 51186

(K) Any action taken by the board under division (B) of this 51187
section resulting in a suspension from practice shall be 51188
accompanied by a written statement of the conditions under which 51189
the individual's certificate to practice may be reinstated. The 51190
board shall adopt rules governing conditions to be imposed for 51191
reinstatement. Reinstatement of a certificate suspended pursuant 51192
to division (B) of this section requires an affirmative vote of 51193
not fewer than six members of the board. 51194

(L) When the board refuses to grant a certificate to an 51195
applicant, revokes an individual's certificate to practice, 51196
refuses to register an applicant, or refuses to reinstate an 51197
individual's certificate to practice, the board may specify that 51198
its action is permanent. An individual subject to a permanent 51199
action taken by the board is forever thereafter ineligible to hold 51200
a certificate to practice and the board shall not accept an 51201
application for reinstatement of the certificate or for issuance 51202
of a new certificate. 51203

(M) Notwithstanding any other provision of the Revised Code, 51204
all of the following apply: 51205

(1) The surrender of a certificate issued under this chapter 51206
shall not be effective unless or until accepted by the board. A 51207
telephone conference call may be utilized for acceptance of the 51208
surrender of an individual's certificate to practice. The 51209
telephone conference call shall be considered a special meeting 51210
under division (F) of section 121.22 of the Revised Code. 51211
Reinstatement of a certificate surrendered to the board requires 51212
an affirmative vote of not fewer than six members of the board. 51213

(2) An application for a certificate made under the 51214
provisions of this chapter may not be withdrawn without approval 51215

of the board. 51216

(3) Failure by an individual to renew a certificate of 51217
registration in accordance with this chapter shall not remove or 51218
limit the board's jurisdiction to take any disciplinary action 51219
under this section against the individual. 51220

(N) Sanctions shall not be imposed under division (B)(28) of 51221
this section against any person who waives deductibles and 51222
copayments as follows: 51223

(1) In compliance with the health benefit plan that expressly 51224
allows such a practice. Waiver of the deductibles or copayments 51225
shall be made only with the full knowledge and consent of the plan 51226
purchaser, payer, and third-party administrator. Documentation of 51227
the consent shall be made available to the board upon request. 51228

(2) For professional services rendered to any other person 51229
authorized to practice pursuant to this chapter, to the extent 51230
allowed by this chapter and rules adopted by the board. 51231

(O) Under the board's investigative duties described in this 51232
section and subject to division (F) of this section, the board 51233
shall develop and implement a quality intervention program 51234
designed to improve through remedial education the clinical and 51235
communication skills of individuals authorized under this chapter 51236
to practice medicine and surgery, osteopathic medicine and 51237
surgery, and podiatric medicine and surgery. In developing and 51238
implementing the quality intervention program, the board may do 51239
all of the following: 51240

(1) Offer in appropriate cases as determined by the board an 51241
educational and assessment program pursuant to an investigation 51242
the board conducts under this section; 51243

(2) Select providers of educational and assessment services, 51244
including a quality intervention program panel of case reviewers; 51245

(3) Make referrals to educational and assessment service 51246
providers and approve individual educational programs recommended 51247
by those providers. The board shall monitor the progress of each 51248
individual undertaking a recommended individual educational 51249
program. 51250

(4) Determine what constitutes successful completion of an 51251
individual educational program and require further monitoring of 51252
the individual who completed the program or other action that the 51253
board determines to be appropriate; 51254

(5) Adopt rules in accordance with Chapter 119. of the 51255
Revised Code to further implement the quality intervention 51256
program. 51257

An individual who participates in an individual educational 51258
program pursuant to this division shall pay the financial 51259
obligations arising from that educational program. 51260

Sec. 4731.293. (A) The state medical board may issue, without 51261
examination, a ~~visiting medical~~ clinical research faculty 51262
certificate to any person who applies for the certificate and 51263
provides to the board all of the following: 51264

(1) Evidence satisfactory to the board of all of the 51265
following: 51266

(a) That the applicant holds a current, unrestricted license 51267
to practice medicine and surgery or osteopathic medicine and 51268
surgery issued by another state or country ~~and;~~ 51269

(b) That the applicant has been appointed to serve in this 51270
state on the academic staff of a medical school accredited by the 51271
liaison committee on medical education or an osteopathic medical 51272
school accredited by the American osteopathic association; 51273

(c) That the applicant is an international medical graduate 51274
who holds a medical degree from an educational institution listed 51275

in the international medical education directory; 51276

(d) That the applicant will be permitted to work only under 51277
the authority of the department director or chairperson of a 51278
teaching hospital affiliated with the medical school where the 51279
applicant's teaching and research activities will occur. 51280

(2) An affidavit and supporting documentation from the dean 51281
of the medical school or the department director or chairperson of 51282
a teaching hospital affiliated with the school that the applicant 51283
is qualified to perform teaching and research activities; 51284

(3) A description from the medical school or teaching 51285
hospital of the scope of practice in which the applicant will be 51286
involved, including the types of teaching, research, and 51287
procedures in which the applicant will be engaged; 51288

(4) A description of the type and amount of patient contact 51289
that will occur in connection with the applicant's teaching and 51290
research activities. ~~Except as provided in division (E) of this~~ 51291
~~section, the board shall not issue more than one visiting medical~~ 51292
~~faculty certificate to any particular person.~~ 51293

(B) An applicant for a ~~visiting medical~~ an initial clinical 51294
research faculty certificate ~~shall submit evidence satisfactory to~~ 51295
~~the board that the applicant meets the requirements of division~~ 51296
~~(A) of this section. The applicant shall pay a fee of three~~ 51297
~~hundred seventy-five dollars. The board shall maintain a register~~ 51298
~~of all persons who hold a visiting medical faculty certificate.~~ 51299

(C) The holder of a ~~visiting medical~~ clinical research 51300
faculty certificate may practice medicine and surgery or 51301
osteopathic medicine and surgery only as is incidental to the 51302
certificate holder's teaching or research duties at the medical 51303
school or ~~the~~ a teaching hospital's hospital affiliated with the 51304
school. The board may revoke a certificate on receiving proof 51305
satisfactory to the board that the certificate holder ~~of the~~ 51306

~~certificate~~ has engaged in practice in this state outside the 51307
scope of the certificate or that there are grounds for action 51308
against the certificate holder under section 4731.22 of the 51309
Revised Code. 51310

(D) A ~~visiting medical clinical research~~ faculty certificate 51311
is valid for ~~the shorter of~~ three years ~~or the duration of~~, except 51312
that the certificate ceases to be valid if the holder's 51313
appointment to the academic staff of the school is no longer 51314
valid. ~~The certificate may not be renewed.~~ 51315

(E) ~~If a person was granted a visiting medical faculty~~ 51316
~~certificate before the effective date of this amendment, the~~ 51317
~~person may apply for a second visiting medical faculty~~ 51318
~~certificate, unless the person's first certificate was revoked.~~ 51319
~~The board may issue the second certificate if the applicant~~ 51320
~~complies with division (B) of this section~~ (1) A clinical research 51321
faculty certificate may be renewed for an additional three-year 51322
period. There is no limit on the number of times a certificate may 51323
be renewed. A person seeking renewal of a certificate shall apply 51324
to the board and is eligible for renewal if the applicant does all 51325
of the following: 51326

(a) Pays a renewal fee of three hundred seventy-five dollars; 51327

(b) Provides to the board an affidavit and supporting 51328
documentation from the dean of the medical school or the 51329
department director or chairperson of a teaching hospital 51330
affiliated with the school that the applicant is in compliance 51331
with the applicant's current clinical research faculty 51332
certificate; 51333

(c) Provides evidence satisfactory to the board of all of the 51334
following: 51335

(i) That the applicant continues to maintain a current, 51336
unrestricted license to practice medicine and surgery or 51337

osteopathic medicine and surgery issued by another state or 51338
country; 51339

(ii) That the applicant's initial appointment to serve in 51340
this state on the academic staff of a medical school is still 51341
valid or has been renewed; 51342

(iii) That the applicant has satisfied the same continuing 51343
medical education requirements set forth in section 4731.281 of 51344
the Revised Code that apply to a person who holds a certificate to 51345
practice medicine and surgery or osteopathic medicine and surgery 51346
issued under this chapter. 51347

(2) Regardless of whether the certificate has expired, a 51348
person who was granted a visiting medical faculty certificate 51349
under this section as it existed immediately prior to the 51350
effective date of this amendment may apply for a clinical research 51351
faculty certificate as a renewal. The board may issue the clinical 51352
research faculty certificate if the applicant meets the 51353
requirements of division (E)(1) of this section. The board may not 51354
issue a clinical research faculty certificate if the visiting 51355
medical faculty certificate was revoked. 51356

(F) The board shall maintain a register of all persons who 51357
hold clinical research faculty certificates. 51358

(G) The board may adopt any rules it considers necessary to 51359
implement this section. The rules shall be adopted in accordance 51360
with Chapter 119. of the Revised Code. 51361

Sec. 4731.297. (A) As used in this section: 51362

(1) "Academic medical center" means a medical school and its 51363
affiliated teaching hospitals and clinics partnering to do all of 51364
the following: 51365

(a) Provide the highest quality of patient care from expert 51366
physicians; 51367

| | |
|---|-------|
| <u>(b) Conduct groundbreaking research leading to medical</u> | 51368 |
| <u>advancements for current and future patients;</u> | 51369 |
| <u>(c) Provide medical education and graduate medical education</u> | 51370 |
| <u>to educate and train physicians.</u> | 51371 |
| <u>(2) "Affiliated physician group practice" means a medical</u> | 51372 |
| <u>practice that consists of one or more physicians authorized under</u> | 51373 |
| <u>this chapter to practice medicine and surgery or osteopathic</u> | 51374 |
| <u>medicine and surgery and that is affiliated with an academic</u> | 51375 |
| <u>medical center to further the objectives described in divisions</u> | 51376 |
| <u>(A)(1)(a) to (c) of this section.</u> | 51377 |
| <u>(B) The state medical board shall issue, without examination,</u> | 51378 |
| <u>to an applicant who meets the requirements of this section a</u> | 51379 |
| <u>certificate of conceded eminence authorizing the practice of</u> | 51380 |
| <u>medicine and surgery or osteopathic medicine and surgery as part</u> | 51381 |
| <u>of the applicant's employment with an academic medical center in</u> | 51382 |
| <u>this state or affiliated physician group practice in this state.</u> | 51383 |
| <u>(C) To be eligible for a certificate of conceded eminence, an</u> | 51384 |
| <u>applicant shall provide to the board all of the following:</u> | 51385 |
| <u>(1) Evidence satisfactory to the board of all of the</u> | 51386 |
| <u>following:</u> | 51387 |
| <u>(a) That the applicant is an international medical graduate</u> | 51388 |
| <u>who holds a medical degree from an educational institution listed</u> | 51389 |
| <u>in the international medical education directory;</u> | 51390 |
| <u>(b) That the applicant has been appointed to serve in this</u> | 51391 |
| <u>state as a full-time faculty member of a medical school accredited</u> | 51392 |
| <u>by the liaison committee on medical education or an osteopathic</u> | 51393 |
| <u>medical school accredited by the American osteopathic association;</u> | 51394 |
| <u>(c) That the applicant has accepted an offer of employment</u> | 51395 |
| <u>with an academic medical center in this state or affiliated</u> | 51396 |
| <u>physician group practice in this state;</u> | 51397 |

- (d) That the applicant holds a license in good standing in another state or country authorizing the practice of medicine and surgery or osteopathic medicine and surgery; 51398
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- (e) That the applicant has unique talents and extraordinary abilities not generally found within the applicant's specialty, as demonstrated by satisfying at least four of the following: 51401
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- (i) The applicant has achieved educational qualifications beyond those that are required for entry into the applicant's specialty, including advanced degrees, special certifications, or other academic credentials. 51404
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- (ii) The applicant has written multiple articles in journals listed in the index medicus or an equivalent scholarly publication acceptable to the board. 51408
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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. 51411
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- (iv) The applicant has received nationally or internationally recognized prizes or awards for excellence. 51415
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- (v) The applicant has participated in peer review in a field of specialization that is the same as or similar to the applicant's specialty. 51417
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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. 51420
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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. 51423
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- (viii) The applicant has been the recipient of a national institutes of health or other competitive grant award. 51426
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(f) 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; 51428
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(g) That the applicant has sufficient written and oral English skills to communicate effectively and reliably with patients, their families, and other medical professionals; 51434
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(h) That the applicant will have professional liability insurance through the applicant's employment with the academic medical center or affiliated physician group practice. 51437
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(2) An affidavit from the applicant agreeing to practice only within the clinical setting of the academic medical center; 51440
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(3) Three letters of reference from distinguished experts in the applicant's specialty attesting to the unique capabilities of the applicant, at least one of which must be from outside the academic medical center or affiliated physician group practice; 51442
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(4) An affidavit from the dean of the medical school where the applicant has been appointed to serve as a faculty member stating that the applicant meets all of the requirements of division (C)(1) of this section and that the letters of reference submitted under division (C)(3) of this section are from distinguished experts in the applicant's specialty, and documentation to support the affidavit; 51446
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(5) A fee of one thousand dollars for the certificate. 51453

(D)(1) The holder of a certificate of conceded eminence may practice medicine and surgery or osteopathic medicine and surgery only within the clinical setting of the academic medical center with which the certificate holder is employed. 51454
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(2) A certificate holder may supervise medical students, physicians participating in graduate medical education, advanced practice nurses, and physician assistants when performing clinical services in the certificate holder's area of specialty. 51458
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(E) The board may revoke a certificate issued under this section on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the certificate holder under section 4731.22 of the Revised Code. 51462
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(F) A certificate of conceded eminence is valid for the shorter of two years or the duration of the certificate holder's employment with the academic medical center or affiliated physician group practice. The certificate ceases to be valid if the holder resigns or is otherwise terminated from the academic medical center or affiliated physician group practice. 51468
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(G) A certificate of conceded eminence may be renewed for an additional two-year period. There is no limit on the number of times a certificate may be renewed. A person seeking renewal of a certificate shall apply to the board and is eligible for renewal if the applicant does all of the following: 51474
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(1) Pays the renewal fee of one thousand dollars; 51479

(2) Provides to the board an affidavit and supporting documentation from the academic medical center or affiliated physician group practice of all of the following: 51480
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(a) That the applicant's initial appointment to the medical faculty is still valid or has been renewed; 51483
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(b) That the applicant's clinical practice is consistent with the established standards in the field; 51485
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(c) That the applicant has demonstrated continued scholarly 51487

achievement; 51488

(d) That the applicant has demonstrated continued 51489
professional achievement consistent with the academic medical 51490
center's requirements, established pursuant to standards adopted 51491
under section 3701.351 of the Revised Code, for physicians with 51492
staff membership or professional privileges with the academic 51493
medical center. 51494

(3) Satisfies the same continuing medical education 51495
requirements set forth in section 4731.281 of the Revised Code 51496
that apply to a person who holds a certificate to practice 51497
medicine and surgery or osteopathic medicine and surgery issued 51498
under this chapter. 51499

(4) Complies with any other requirements established by the 51500
board. 51501

(H) The board may adopt any rules it considers necessary to 51502
implement this section. The rules shall be adopted in accordance 51503
with Chapter 119. of the Revised Code. 51504

Sec. 4736.01. As used in this chapter: 51505

(A) "Environmental health science" means the aspect of public 51506
health science that includes, but is not limited to, the following 51507
bodies of knowledge: air quality, food quality and protection, 51508
hazardous and toxic substances, consumer product safety, housing, 51509
institutional health and safety, community noise control, 51510
radiation protection, recreational facilities, solid and liquid 51511
waste management, vector control, drinking water quality, milk 51512
sanitation, and rabies control. 51513

(B) "Sanitarian" means a person who performs for compensation 51514
educational, investigational, technical, or administrative duties 51515
requiring specialized knowledge and skills in the field of 51516
environmental health science. 51517

(C) "Registered sanitarian" means a person who is registered 51518
as a sanitarian in accordance with this chapter. 51519

(D) "Sanitarian-in-training" means a person who is registered 51520
as a sanitarian-in-training in accordance with this chapter. 51521

(E) "Practice of environmental health" means consultation, 51522
instruction, investigation, inspection, or evaluation by an 51523
employee of a city health district, a general health district, the 51524
environmental protection agency, the department of health, or the 51525
department of agriculture requiring specialized knowledge, 51526
training, and experience in the field of environmental health 51527
science, with the primary purpose of improving or conducting 51528
administration or enforcement under any of the following: 51529

(1) Chapter 911., 913., 917., 3717., 3718., 3721., 3729., or 51530
3733. of the Revised Code; 51531

(2) Chapter 3734. of the Revised Code as it pertains to solid 51532
waste; 51533

(3) Section 955.26, 3701.344, 3707.01, or 3707.03, sections 51534
3707.38 to 3707.99, or section 3715.21 of the Revised Code; 51535

(4) Rules adopted under former section 3701.34 of the Revised 51536
Code pertaining to rabies control or swimming pools; 51537

(5) Rules adopted under section 3701.935 of the Revised Code 51538
for school health and safety network inspections and rules adopted 51539
under section 3707.26 of the Revised Code for sanitary 51540
inspections. 51541

"Practice of environmental health" does not include sampling, 51542
testing, controlling of vectors, reporting of observations, or 51543
other duties that do not require application of specialized 51544
knowledge and skills in environmental health science performed 51545
under the supervision of a registered sanitarian. 51546

The state board of sanitarian registration may further define 51547

environmental health science in relation to specific functions in 51548
the practice of environmental health through rules adopted by the 51549
board under Chapter 119. of the Revised Code. 51550

Sec. 4740.03. (A) The administrative section of the Ohio 51551
construction industry licensing board annually shall elect from 51552
among its members a chairperson and other officers as the board, 51553
by rule, designates. The chairperson shall preside over meetings 51554
of the administrative section or designate another member to 51555
preside in the chairperson's absence. The administrative section 51556
shall hold at least two regular meetings each year, but may meet 51557
at additional times as specified by rule, at the call of the 51558
chairperson, or upon the request of two or more members. A 51559
majority of the members of the administrative section constitutes 51560
a quorum for the transaction of all business. The administrative 51561
section may not take any action without the concurrence of at 51562
least three of its members. 51563

(B)(1) The administrative section shall employ a secretary, 51564
who is not a member of the board, to serve at the pleasure of the 51565
administrative section, and shall fix the compensation of the 51566
secretary. The secretary shall be in the unclassified civil 51567
service of the state. 51568

(2) The secretary shall do all of the following: 51569

(a) Keep or set standards for and delegate to another person 51570
the keeping of the minutes, books, and other records and files of 51571
the board and each section of the board; 51572

(b) Issue all licenses in the name of the board; 51573

(c) Send out all notices, including advance notices of 51574
meetings of the board and each section of the board, and attend to 51575
all correspondence of the board and each section of the board, 51576
under the direction of the administrative section; 51577

(d) Receive and deposit all fees payable pursuant to this 51578
chapter into the ~~labor~~ industrial compliance operating fund 51579
created pursuant to section 121.084 of the Revised Code; 51580

(e) Perform all other duties incidental to the office of the 51581
secretary or properly assigned to the secretary by the 51582
administrative section of the board. 51583

(3) Before entering upon the discharge of the duties of the 51584
secretary, the secretary shall file with the treasurer of state a 51585
bond in the sum of five thousand dollars, payable to the state, to 51586
ensure the faithful performance of the secretary's duties. The 51587
board shall pay the premium of the bond in the same manner as it 51588
pays other expenditures of the board. 51589

(C) Upon the request of the administrative section of the 51590
board, the director of commerce shall supply the board and its 51591
sections with personnel, office space, and supplies, as the 51592
director determines appropriate. The administrative section of the 51593
board shall employ any additional staff it considers necessary and 51594
appropriate. 51595

(D) The chairperson of the board or the secretary, or both, 51596
as authorized by the board, shall approve all vouchers of the 51597
board. 51598

Sec. 4740.11. The Ohio construction industry licensing board 51599
and its sections shall deposit all receipts and fines collected 51600
under this chapter into the state treasury to the credit of the 51601
~~labor~~ industrial compliance operating fund created in section 51602
121.084 of the Revised Code. 51603

Sec. 4740.14. (A) There is hereby created within the 51604
department of commerce the residential construction advisory 51605
committee consisting of nine persons the director of commerce 51606
appoints. The advisory committee shall be made up of the following 51607

members: 51608

(1) Three shall be general contractors who have recognized 51609
ability and experience in the construction of residential 51610
buildings. 51611

(2) Two shall be building officials who have experience 51612
administering and enforcing a residential building code. 51613

(3) One, chosen from a list of three names the Ohio fire 51614
chief's association submits, shall be from the fire service 51615
certified as a fire safety inspector who has at least ten years of 51616
experience enforcing fire or building codes. 51617

(4) One shall be a residential contractor who has recognized 51618
ability and experience in the remodeling and construction of 51619
residential buildings. 51620

(5) One shall be an architect registered pursuant to Chapter 51621
4703. of the Revised Code, with recognized ability and experience 51622
in the architecture of residential buildings. 51623

(6) One, chosen from a list of three names the Ohio municipal 51624
league submits to the director, shall be a mayor of a municipal 51625
corporation in which the Ohio residential building code is being 51626
enforced in the municipal corporation by a certified building 51627
department. 51628

(B) Terms of office shall be for three years, with each term 51629
ending on the date three years after the date of appointment. Each 51630
member shall hold office from the date of appointment until the 51631
end of the term for which the member was appointed. Vacancies 51632
shall be filled in the manner provided for initial appointments. 51633
Any member appointed to fill a vacancy in an unexpired term shall 51634
hold office for the remainder of that term. 51635

(C) The advisory committee shall do all of the following: 51636

(1) Recommend to the board of building standards a building 51637

code for residential buildings. The committee shall recommend a 51638
code that it may model on a residential building code a national 51639
model code organization issues, with adaptations necessary to 51640
implement the code in this state. If the board of building 51641
standards decides not to adopt a code the committee recommends, 51642
the committee shall revise the code and resubmit it until the 51643
board adopts a code the committee recommends as the state 51644
residential building code; 51645

(2) Advise the board regarding the establishment of standards 51646
for certification of building officials who enforce the state 51647
residential building code; 51648

(3) Assist the board in providing information and guidance to 51649
residential contractors and building officials who enforce the 51650
state residential building code; 51651

(4) Advise the board regarding the interpretation of the 51652
state residential building code; 51653

(5) Provide other assistance the committee considers 51654
necessary; 51655

(6) Provide the board with a written report of the 51656
committee's findings for each consideration required by division 51657
(D) of this section. 51658

(D) The committee shall not make its recommendation to the 51659
board pursuant to divisions (C)(1), (2), and (4) of this section 51660
until the advisory committee has considered all of the following: 51661

(1) The impact that the state residential building code may 51662
have upon the health, safety, and welfare of the public; 51663

(2) The economic reasonableness of the residential building 51664
code; 51665

(3) The technical feasibility of the residential building 51666
code; 51667

(4) The financial impact that the residential building code may have on the public's ability to purchase affordable housing. 51668
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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. 51670
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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 division (F)(2) of section 3781.102 of the Revised Code and deposited in that fund. 51676
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(G) The advisory committee is not subject to divisions (A) and (B) of section 101.84 of the Revised Code. 51686
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Sec. 4743.05. Except as otherwise provided in sections 4701.20, 4723.062, 4723.082, ~~and~~ 4729.65, 4781.121, and 4781.28 of the Revised Code, all money collected under Chapters 3773., 4701., 4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 4733., 4734., 4736., 4741., 4753., 4755., 4757., 4758., 4759., 4761., 4766., 4771., 4775., 4779., and 4781. of the Revised Code shall be paid into the state treasury to the credit of the occupational licensing and regulatory fund, which is hereby created for use in administering such chapters. 51688
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At the end of each quarter, the director of budget and management shall transfer from the occupational licensing and 51697
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regulatory fund to the nurse education assistance fund created in 51699
section 3333.28 of the Revised Code the amount certified to the 51700
director under division (B) of section 4723.08 of the Revised 51701
Code. 51702

At the end of each quarter, the director shall transfer from 51703
the occupational licensing and regulatory fund to the certified 51704
public accountant education assistance fund created in section 51705
4701.26 of the Revised Code the amount certified to the director 51706
under division (H)(2) of section 4701.10 of the Revised Code. 51707

Sec. 4763.05. (A)(1)(a) A person shall make application for 51708
an initial state-certified general real estate appraiser 51709
certificate, an initial state-certified residential real estate 51710
appraiser certificate, an initial state-licensed residential real 51711
estate appraiser license, or an initial state-registered real 51712
estate appraiser assistant registration in writing to the 51713
superintendent of real estate on a form the superintendent 51714
prescribes. The application shall include the address of the 51715
applicant's principal place of business and all other addresses at 51716
which the applicant currently engages in the business of preparing 51717
real estate appraisals and the address of the applicant's current 51718
residence. The superintendent shall retain the applicant's current 51719
residence address in a separate record which ~~shall~~ does not 51720
constitute a public record for purposes of section ~~149.03~~ 149.43 51721
of the Revised Code. The application shall indicate whether the 51722
applicant seeks certification as a general real estate appraiser 51723
or as a residential real estate appraiser, licensure as a 51724
residential real estate appraiser, or registration as a real 51725
estate appraiser assistant and be accompanied by the prescribed 51726
examination and certification, registration, or licensure fees set 51727
forth in section 4763.09 of the Revised Code. The application also 51728
shall include a pledge, signed by the applicant, that the 51729
applicant will comply with the standards set forth in this 51730

chapter; and a statement that the applicant understands the types 51731
of misconduct for which disciplinary proceedings may be initiated 51732
against the applicant pursuant to this chapter. 51733

(b) Upon the filing of an application and payment of any 51734
examination and certification, registration, or licensure fees, 51735
the superintendent of real estate shall request the superintendent 51736
of the bureau of criminal identification and investigation, or a 51737
vendor approved by the bureau, to conduct a criminal records check 51738
based on the applicant's fingerprints in accordance with ~~division~~ 51739
~~(A)(11)~~ of section 109.572 of the Revised Code. Notwithstanding 51740
division (K) of section 121.08 of the Revised Code, the 51741
superintendent of real estate shall request that criminal record 51742
information from the federal bureau of investigation be obtained 51743
as part of the criminal records check. Any fee required under 51744
division (C)(3) of section 109.572 of the Revised Code shall be 51745
paid by the applicant. 51746

(2) For purposes of providing funding for the real estate 51747
appraiser recovery fund established by section 4763.16 of the 51748
Revised Code, the real estate appraiser board shall levy an 51749
assessment against each person issued an initial certificate, 51750
registration, or license and against current licensees, 51751
registrants, and certificate holders, as required by board rule. 51752
The assessment is in addition to the application and examination 51753
fees for initial applicants required by division (A)(1) of this 51754
section and the renewal fees required for current certificate 51755
holders, registrants, and licensees. The superintendent of real 51756
estate shall deposit the assessment into the state treasury to the 51757
credit of the real estate appraiser recovery fund. The assessment 51758
for initial certificate holders, registrants, and licensees shall 51759
be paid prior to the issuance of a certificate, registration, or 51760
license, and for current certificate holders, registrants, and 51761
licensees, at the time of renewal. 51762

(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 or residential real estate appraiser certificate or residential real estate appraiser license shall take and successfully complete a written examination in order to qualify for the certificate or license.

The board shall prescribe the examination requirements by rule.

(E)(1) A nonresident, natural person of this state who has complied with this section may obtain a certificate, registration, or license. The board shall adopt rules relating to the certification, registration, and licensure of a nonresident applicant whose state of residence the board determines to have certification, registration, or licensure requirements that are substantially similar to those set forth in this chapter and the rules adopted thereunder.

(2) The board shall recognize on a temporary basis a certification or license issued in another state and shall register on a temporary basis an appraiser who is certified or licensed in another state if all of the following apply:

(a) The temporary registration is to perform an appraisal assignment that is part of a federally related transaction.

(b) The appraiser's business in this state is of a temporary nature.

(c) The appraiser registers with the board pursuant to this division.

An appraiser who is certified or licensed in another state shall register with the board for temporary practice before performing an appraisal assignment in this state in connection with a federally related transaction.

The board shall adopt rules relating to registration for the temporary recognition of certification and licensure of appraisers from another state. The registration for temporary recognition of certified or licensed appraisers from another state shall not authorize completion of more than one appraisal assignment in this state. The board shall not issue more than two registrations for temporary practice to any one applicant in any calendar year.

(3) In addition to any other information required to be submitted with the nonresident applicant's or appraiser's application for a certificate, registration, license, or temporary recognition of a certificate or license, each nonresident applicant or appraiser shall submit a statement consenting to the service of process upon the nonresident applicant or appraiser by means of delivering that process to the secretary of state if, in an action against the applicant, certificate holder, registrant, or licensee arising from the applicant's, certificate holder's, registrant's, or licensee's activities as a certificate holder,

registrant, or licensee, the plaintiff, in the exercise of due 51825
diligence, cannot effect personal service upon the applicant, 51826
certificate holder, registrant, or licensee. 51827

(F) The superintendent shall not issue a certificate, 51828
registration, or license to, or recognize on a temporary basis an 51829
appraiser from another state that is a corporation, partnership, 51830
or association. This prohibition shall not be construed to prevent 51831
a certificate holder or licensee from signing an appraisal report 51832
on behalf of a corporation, partnership, or association. 51833

(G) Every person licensed, registered, or certified under 51834
this chapter shall notify the superintendent, on a form provided 51835
by the superintendent, of a change in the address of the 51836
licensee's, registrant's, or certificate holder's principal place 51837
of business or residence within thirty days of the change. If a 51838
licensee's, registrant's, or certificate holder's license, 51839
registration, or certificate is revoked or not renewed, the 51840
licensee, registrant, or certificate holder immediately shall 51841
return the annual and any renewal certificate, registration, or 51842
license to the superintendent. 51843

(H)(1) The superintendent shall not issue a certificate, 51844
registration, or license to any person, or recognize on a 51845
temporary basis an appraiser from another state, who does not meet 51846
applicable minimum criteria for state certification, registration, 51847
or licensure prescribed by federal law or rule. 51848

(2) The superintendent shall not issue a general real estate 51849
appraiser certificate, residential real estate appraiser 51850
certificate, residential real estate appraiser license, or real 51851
estate appraiser assistant registration to any person who has been 51852
convicted of or pleaded guilty to any criminal offense involving 51853
theft, receiving stolen property, embezzlement, forgery, fraud, 51854
passing bad checks, money laundering, or drug trafficking, or any 51855
criminal offense involving money or securities, including a 51856

violation of an existing or former law of this state, any other 51857
state, or the United States that substantially is equivalent to 51858
such an offense. However, if the applicant has pleaded guilty to 51859
or been convicted of such an offense, the superintendent shall not 51860
consider the offense if the applicant has proven to the 51861
superintendent, by a preponderance of the evidence, that the 51862
applicant's activities and employment record since the conviction 51863
show that the applicant is honest, truthful, and of good 51864
reputation, and there is no basis in fact for believing that the 51865
applicant will commit such an offense again. 51866

Sec. 4765.02. (A)(1) There is hereby created the state board 51867
of emergency medical, fire, and transportation services within the 51868
division of emergency medical services of the department of public 51869
safety. The board shall consist of the members specified in this 51870
section who are residents of this state. The governor, with the 51871
advice and consent of the senate, shall appoint all members of the 51872
board, except the employee of the department of public safety 51873
designated by the director of public safety under this section to 51874
be a member of the board. In making the appointments, the governor 51875
shall appoint only members with background or experience in 51876
emergency medical services or trauma care and shall attempt to 51877
include members representing urban and rural areas, various 51878
geographical regions of the state, and various schools of 51879
training. 51880

(2) One member of the board shall be a physician certified by 51881
the American board of emergency medicine or the American 51882
osteopathic board of emergency medicine who is active in the 51883
practice of emergency medicine and is actively involved with an 51884
emergency medical service organization. The governor shall appoint 51885
this member from among three persons nominated by the Ohio chapter 51886
of the American college of emergency physicians and three persons 51887
nominated by the Ohio osteopathic association. One member shall be 51888

a physician certified by the American board of surgery or the 51889
American osteopathic board of surgery who is active in the 51890
practice of trauma surgery and is actively involved with emergency 51891
medical services. The governor shall appoint this member from 51892
among three persons nominated by the Ohio chapter of the American 51893
college of surgeons and three persons nominated by the Ohio 51894
osteopathic association. One member shall be a physician certified 51895
by the American academy of pediatrics or American osteopathic 51896
board of pediatrics who is active in the practice of pediatric 51897
emergency medicine and actively involved with an emergency medical 51898
service organization. The governor shall appoint this member from 51899
among three persons nominated by the Ohio chapter of the American 51900
academy of pediatrics and three persons nominated by the Ohio 51901
osteopathic association. ~~One member shall be the administrator of~~ 51902
~~an adult or pediatric trauma center. The governor shall appoint~~ 51903
~~this member from among three persons nominated by the OHA: the~~ 51904
~~association for hospitals and health systems, three persons~~ 51905
~~nominated by the Ohio osteopathic association, three persons~~ 51906
~~nominated by the association of Ohio children's hospitals, and~~ 51907
~~three persons nominated by the health forum of Ohio. One member~~ 51908
~~shall be the administrator of a hospital that is not a trauma~~ 51909
~~center located in this state. The governor shall appoint this~~ 51910
member from among three persons nominated by OHA: the association 51911
for hospitals and health systems, three persons nominated by the 51912
Ohio osteopathic association, and three persons nominated by the 51913
association of Ohio children's hospitals, ~~and three persons~~ 51914
~~nominated by the health forum of Ohio. One member shall be a~~ 51915
registered nurse with EMS certification who ~~is in the active~~ 51916
~~practice of emergency nursing~~ performs mobile intensive care or 51917
air medical transport. The governor shall appoint this member from 51918
among three persons nominated by the Ohio nurses association and 51919
three persons nominated by the Ohio state council of the emergency 51920
nurses association. One member shall be the chief of a fire 51921

department that is also an emergency medical service organization 51922
in which more than fifty per cent of the persons who provide 51923
emergency medical services are full-time paid employees. The 51924
governor shall appoint this member from among three persons 51925
nominated by the Ohio fire chiefs' association. One member shall 51926
be the chief of a fire department that is also an emergency 51927
medical service organization in which more than fifty per cent of 51928
the persons who provide emergency medical services are volunteers. 51929
The governor shall appoint this member from among three persons 51930
nominated by the Ohio fire chiefs' association. One member shall 51931
be a person who is certified to teach under section 4765.23 of the 51932
Revised Code ~~or, if the board has not yet certified persons to~~ 51933
~~teach under that section, a person who is qualified to be~~ 51934
~~certified to teach under that section and holds a valid~~ 51935
certificate to practice as an EMT, advanced EMT, or paramedic. The 51936
governor shall appoint this member from among three persons 51937
nominated by the Ohio emergency medical technician instructors 51938
association and the Ohio instructor/coordinators' society. One 51939
member shall be an ~~EMT basic, one shall be an EMT-I~~ EMT, advanced 51940
EMT, or paramedic, and one member shall be a paramedic. The 51941
governor shall appoint these members from among three ~~EMTs basic,~~ 51942
~~three EMTs-I,~~ EMTs or advanced EMTs and three paramedics nominated 51943
by the Ohio association of professional fire fighters ~~and three~~ 51944
~~EMTs basic, three EMTs-I, and three paramedics nominated by the~~ 51945
~~northern Ohio fire fighters.~~ One member shall be an ~~EMT basic, one~~ 51946
~~shall be an EMT-I~~ EMT, advanced EMT, or paramedic, and one member 51947
shall be a paramedic ~~whom the.~~ The governor shall appoint these 51948
members from among three ~~EMTs basic, three EMTs-I,~~ EMTs or 51949
advanced EMTs and three paramedics nominated by the Ohio state 51950
firefighter's association. One member shall be a person whom the 51951
governor shall appoint from among an ~~EMT basic, an EMT-I, and~~ EMT, 51952
an advanced EMT, or a paramedic nominated by the Ohio association 51953
of emergency medical services or the Ohio ambulance and medical 51954

transportation association. One member shall be an EMT, an 51955
advanced EMT, or a paramedic, whom the governor shall appoint from 51956
among three persons nominated by the Ohio ambulance and medical 51957
transportation association. One member shall be a paramedic, whom 51958
the governor shall appoint from among three persons nominated by 51959
the Ohio ambulance and medical transportation association. The 51960
~~governor shall appoint one member who is an EMT basic, EMT-I, or~~ 51961
~~paramedic affiliated with an emergency medical services~~ 51962
~~organization. One member shall be a member of the Ohio ambulance~~ 51963
~~association whom the governor shall appoint from among three~~ 51964
~~persons nominated by the Ohio ambulance association. One member~~ 51965
~~shall be a physician certified by the American board of surgery,~~ 51966
~~American board of osteopathic surgery, American osteopathic board~~ 51967
~~of emergency medicine, or American board of emergency medicine who~~ 51968
~~is the chief medical officer of an air medical agency and is~~ 51969
~~currently active in providing emergency medical services. The~~ 51970
~~governor shall appoint this member from among three persons~~ 51971
~~nominated by the Ohio association of air medical services. One~~ 51972
~~member shall be the owner or operator of a private emergency~~ 51973
~~medical service organization whom the governor shall appoint from~~ 51974
~~among three persons nominated by the Ohio ambulance and medical~~ 51975
~~transportation association. One member shall be a provider of~~ 51976
~~mobile intensive care unit transportation in this state whom the~~ 51977
~~governor shall appoint from among three persons nominated by the~~ 51978
~~Ohio association of critical care transport and three persons~~ 51979
~~nominated by the Ohio ambulance and transportation association.~~ 51980
~~One member shall be a provider of air-medical transportation in~~ 51981
~~this state whom the governor shall appoint from among three~~ 51982
~~persons nominated by the Ohio association of critical care~~ 51983
~~transport and three persons nominated by the Ohio ambulance and~~ 51984
~~medical transportation association. One member shall be the owner~~ 51985
~~or operator of a nonemergency medical service organization in this~~ 51986
~~state that provides ambulette services whom the governor shall~~ 51987

appoint from among three persons nominated by the Ohio ambulance 51988
and medical transportation association. 51989

The governor may refuse to appoint any of the persons 51990
nominated by one or more organizations under division (A)(2) of 51991
this section, except the employee of the department of public 51992
safety designated by the director of public safety under this 51993
section to be a member of the board. In that event, the 51994
organization or organizations shall continue to nominate the 51995
required number of persons until the governor appoints to the 51996
board one or more of the persons nominated by the organization or 51997
organizations. 51998

The director of public safety shall designate an employee of 51999
the department of public safety to serve as a member of the board 52000
at the director's pleasure. This member shall serve as a liaison 52001
between the department and the division of emergency medical 52002
services in cooperation with the executive director of the board. 52003

~~Initial appointments to the board by the governor and the~~ 52004
~~director of public safety shall be made within ninety days after~~ 52005
~~November 12, 1992. Of the initial appointments by the governor,~~ 52006
~~five shall be for terms ending one year after November 12, 1992,~~ 52007
~~six shall be for terms ending two years after November 12, 1992,~~ 52008
~~and six shall be for terms ending three years after November 12,~~ 52009
~~1992. Within ninety days after the effective date of this~~ 52010
~~amendment, the governor shall appoint the member of the board who~~ 52011
~~is the chief medical officer of an air medical agency for an~~ 52012
~~initial term ending November 12, 2000. Thereafter, terms~~ 52013

(B) Terms of office of all members appointed by the governor 52014
shall be for three years, each term ending on the same day of the 52015
same month as did the term it succeeds. Each member shall hold 52016
office from the date of appointment until the end of the term for 52017
which the member was appointed. A member shall continue in office 52018
subsequent to the expiration date of the member's term until the 52019

member's successor takes office, or until a period of sixty days 52020
has elapsed, whichever occurs first. 52021

Each vacancy shall be filled in the same manner as the 52022
original appointment. A member appointed to fill a vacancy 52023
occurring prior to the expiration of the term for which the 52024
member's predecessor was appointed shall hold office for the 52025
remainder of the unexpired term. 52026

The term of a member shall expire if the member ceases to 52027
meet any of the requirements to be appointed as that member. The 52028
governor may remove any member from office for neglect of duty, 52029
malfeasance, misfeasance, or nonfeasance, after an adjudication 52030
hearing held in accordance with Chapter 119. of the Revised Code. 52031

(C) The members of the board shall serve without compensation 52032
but shall be reimbursed for their actual and necessary expenses 52033
incurred in carrying out their duties as board members. 52034

(D) The board shall organize by annually selecting a chair 52035
and vice-chair from among its members. The board may adopt bylaws 52036
to regulate its affairs. A majority of all members of the board 52037
shall constitute a quorum. No action shall be taken without the 52038
concurrence of a majority of all members of the board. The board 52039
shall meet at least four times annually and at the call of the 52040
chair. The chair shall call a meeting on the request of the 52041
executive director or the medical director of the board or on the 52042
written request of five members. The board shall maintain written 52043
or electronic records of its meetings. 52044

(E) Upon twenty-four hours' notice from a member of the 52045
board, the member's employer shall release the member from the 52046
member's employment duties to attend meetings of the full board. 52047
Nothing in this ~~paragraph~~ division requires the employer of a 52048
member of the board to compensate the member for time the member 52049
is released from employment duties under this paragraph, but any 52050

civil immunity, workers' compensation, disability, or similar 52051
coverage that applies to a member of the board as a result of the 52052
member's employment shall continue to apply while the member is 52053
released from employment duties under this paragraph. 52054

Sec. 4765.03. (A) The director of public safety shall appoint 52055
a full-time executive director for the state board of emergency 52056
medical and transportation services. The executive director shall 52057
be knowledgeable in emergency medical services and trauma care and 52058
shall serve at the pleasure of the director of public safety. The 52059
director of public safety shall appoint the executive director 52060
from among three persons nominated by the board. The director of 52061
public safety may refuse, for cause, to appoint any of the board's 52062
nominees. If the director fails to appoint any of the board's 52063
nominees, the board shall continue to nominate groups of three 52064
persons until the director does appoint one of the board's 52065
nominees. The executive director shall serve as the chief 52066
executive officer of the board and as the executive director of 52067
the division of emergency medical services. The executive director 52068
shall attend each meeting of the board, except the board may 52069
exclude the executive director from discussions concerning the 52070
employment or performance of the executive director or medical 52071
director of the board. The executive director shall give a surety 52072
bond to the state in such sum as the board determines, conditioned 52073
on the faithful performance of the duties of the executive 52074
director's office. The executive director shall receive a salary 52075
from the board and shall be reimbursed for actual and necessary 52076
expenses incurred in carrying out duties as executive director. 52077

52078

The executive director shall submit a report to the director 52079
of public safety at least every three months regarding the status 52080
of emergency medical services in this state. The executive 52081
director shall meet with the director of public safety at the 52082

director's request. 52083

(B) The board shall appoint a medical director, who shall 52084
serve at the pleasure of the board. The medical director shall be 52085
a physician certified by the American board of emergency medicine 52086
or the American osteopathic board of emergency medicine who is 52087
active in the practice of emergency medicine and has been actively 52088
involved with an emergency medical service organization for at 52089
least five years prior to being appointed. The board shall 52090
consider any recommendations for this appointment from the Ohio 52091
chapter of the American college of emergency physicians, the Ohio 52092
chapter of the American college of surgeons, the Ohio chapter of 52093
the American academy of pediatrics, the Ohio osteopathic 52094
association, and the Ohio state medical association. 52095

The medical director shall direct the executive director and 52096
advise the board with regard to adult and pediatric trauma and 52097
emergency medical services issues. The medical director shall 52098
attend each meeting of the board, except the board may exclude the 52099
medical director from discussions concerning the appointment or 52100
performance of the medical director or executive director of the 52101
board. The medical director shall be employed and paid by the 52102
board and shall be reimbursed for actual and necessary expenses 52103
incurred in carrying out duties as medical director. 52104

(C) The board may appoint employees as it determines 52105
necessary. The board shall prescribe the duties and titles of its 52106
employees. 52107

Sec. 4765.04. (A) The firefighter and fire safety inspector 52108
training committee of the state board of emergency medical, fire, 52109
and transportation services is hereby created and shall consist of 52110
the members of the board who are chiefs of fire departments, and 52111
the members of the board who are emergency medical 52112
technicians-basic, emergency medical technicians-intermediate, and 52113

emergency medical technicians-paramedic appointed from among 52114
persons nominated by the Ohio association of professional fire 52115
fighters or the northern Ohio fire fighters and from among persons 52116
nominated by the Ohio state firefighter's association. Each member 52117
of the committee, except the chairperson, may designate a person 52118
with fire experience to serve in that member's place. The members 52119
of the committee or their designees shall select a chairperson 52120
from among the members or their designees. 52121

The committee may conduct investigations in the course of 52122
discharging its duties under this chapter. In the course of an 52123
investigation, the committee may issue subpoenas. If a person 52124
subpoenaed fails to comply with the subpoena, the committee may 52125
authorize its chairperson to apply to the court of common pleas in 52126
the county where the person to be subpoenaed resides for an order 52127
compelling compliance in the same manner as compliance with a 52128
subpoena issued by the court is compelled. 52129

(B) The trauma committee of the state board of emergency 52130
medical, fire, and transportation services is hereby created and 52131
shall consist of the following members appointed by the director 52132
of public safety: 52133

(1) A physician who is certified by the American board of 52134
surgery or American osteopathic board of surgery and actively 52135
practices general trauma surgery, appointed from among three 52136
persons nominated by the Ohio chapter of the American college of 52137
surgeons, three persons nominated by the Ohio state medical 52138
association, and three persons nominated by the Ohio osteopathic 52139
association; 52140

(2) A physician who is certified by the American board of 52141
surgery or the American osteopathic board of surgery and actively 52142
practices orthopedic trauma surgery, appointed from among three 52143
persons nominated by the Ohio orthopedic society and three persons 52144

nominated by the Ohio osteopathic association; 52145

(3) A physician who is certified by the American board of 52146
neurological surgeons or the American osteopathic board of surgery 52147
and actively practices neurosurgery on trauma victims, appointed 52148
from among three persons nominated by the Ohio state neurological 52149
society and three persons nominated by the Ohio osteopathic 52150
association; 52151

(4) A physician who is certified by the American board of 52152
surgeons or American osteopathic board of surgeons and actively 52153
specializes in treating burn victims, appointed from among three 52154
persons nominated by the Ohio chapter of the American college of 52155
surgeons and three persons nominated by the Ohio osteopathic 52156
association; 52157

(5) A dentist who is certified by the American board of oral 52158
and maxillofacial surgery and actively practices oral and 52159
maxillofacial surgery, appointed from among three persons 52160
nominated by the Ohio dental association; 52161

(6) A physician who is certified by the American board of 52162
physical medicine and rehabilitation or American osteopathic board 52163
of rehabilitation medicine and actively provides rehabilitative 52164
care to trauma victims, appointed from among three persons 52165
nominated by the Ohio society of physical medicine and 52166
rehabilitation and three persons nominated by the Ohio osteopathic 52167
association; 52168

(7) A physician who is certified by the American board of 52169
surgery or American osteopathic board of surgery with special 52170
qualifications in pediatric surgery and actively practices 52171
pediatric trauma surgery, appointed from among three persons 52172
nominated by the Ohio chapter of the American academy of 52173
pediatrics and three persons nominated by the Ohio osteopathic 52174
association; 52175

(8) A physician who is certified by the American board of emergency medicine or American osteopathic board of emergency medicine, actively practices emergency medicine, and is actively involved in emergency medical services, appointed 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;

(9) A physician who is certified by the American board of pediatrics, American osteopathic board of pediatrics, or American board of emergency medicine, is sub-boarded in pediatric emergency medicine, actively practices pediatric emergency medicine, and is actively involved in emergency medical services, appointed from among three persons nominated by the Ohio chapter of the American academy of pediatrics, three persons nominated by the Ohio chapter of the American college of emergency physicians, and three persons nominated by the Ohio osteopathic association;

(10) A physician who is certified by the American board of surgery, American osteopathic board of surgery, or American board of emergency medicine and is the chief medical officer of an air medical organization, appointed from among three persons nominated by the Ohio association of air medical services;

(11) A coroner or medical examiner appointed from among three people nominated by the Ohio state coroners' association;

(12) A registered nurse who actively practices trauma nursing at an adult or pediatric trauma center, appointed from among three persons nominated by the Ohio association of trauma nurse coordinators;

(13) A registered nurse who actively practices emergency nursing and is actively involved in emergency medical services, appointed from among three persons nominated by the Ohio chapter of the emergency nurses' association;

(14) The chief trauma registrar of an adult or pediatric trauma center, appointed from among three persons nominated by the alliance of Ohio trauma registrars;

(15) The administrator of an adult or pediatric trauma center, appointed from among three persons nominated by OHA: the association for hospitals and health systems, three persons nominated by the Ohio osteopathic association, three persons nominated by the association of Ohio children's hospitals, and three persons nominated by the health forum of Ohio;

(16) The administrator of a hospital that is not a trauma center and actively provides emergency care to adult or pediatric trauma patients, appointed from among three persons nominated by OHA: the association for hospitals and health systems, three persons nominated by the Ohio osteopathic association, three persons nominated by the association of Ohio children's hospitals, and three persons nominated by the health forum of Ohio;

(17) The operator of an ambulance company that actively provides trauma care to emergency patients, appointed from among three persons nominated by the Ohio ambulance association;

(18) The chief of a fire department that actively provides trauma care to emergency patients, appointed from among three persons nominated by the Ohio fire chiefs' association;

(19) An EMT or paramedic who is certified under this chapter and actively provides trauma care to emergency patients, appointed from among three persons nominated by the Ohio association of professional firefighters, three persons nominated by the northern Ohio fire fighters, three persons nominated by the Ohio state firefighters' association, and three persons nominated by the Ohio association of emergency medical services;

(20) A person who actively advocates for trauma victims, appointed from three persons nominated by the Ohio brain injury

association and three persons nominated by the governor's council 52238
on people with disabilities; 52239

(21) A physician or nurse who has substantial administrative 52240
responsibility for trauma care provided in or by an adult or 52241
pediatric trauma center, appointed from among three persons 52242
nominated by OHA: the association for hospitals and health 52243
systems, three persons nominated by the Ohio osteopathic 52244
association, three persons nominated by the association of Ohio 52245
children's hospitals, and three persons nominated by the health 52246
forum of Ohio; 52247

(22) Three representatives of hospitals that are not trauma 52248
centers and actively provide emergency care to trauma patients, 52249
appointed from among three persons nominated by OHA: the 52250
association for hospitals and health systems, three persons 52251
nominated by the Ohio osteopathic association, three persons 52252
nominated by the association of Ohio children's hospitals, and 52253
three persons nominated by the health forum of Ohio. The 52254
representatives may be hospital administrators, physicians, 52255
nurses, or other clinical professionals. 52256

Members of the committee shall have substantial experience in 52257
the categories they represent, shall be residents of this state, 52258
and may be members of the state board of emergency medical, fire, 52259
and transportation services. In appointing members of the 52260
committee, the director shall attempt to include members 52261
representing urban and rural areas, various geographical areas of 52262
the state, and various schools of training. The director shall not 52263
appoint to the committee more than one member who is employed by 52264
or practices at the same hospital, health system, or emergency 52265
medical service organization. 52266

The director may refuse to appoint any of the persons 52267
nominated by an organization or organizations under this division. 52268
In that event, the organization or organizations shall continue to 52269

nominate the required number of persons until the director 52270
appoints to the committee one or more of the persons nominated by 52271
the organization or organizations. 52272

Initial appointments to the committee shall be made by the 52273
director not later than ninety days after November 3, 2000. 52274
Members of the committee shall serve at the pleasure of the 52275
director, except that any member of the committee who ceases to be 52276
qualified for the position to which the member was appointed shall 52277
cease to be a member of the committee. Vacancies on the committee 52278
shall be filled in the same manner as original appointments. 52279

The members of the committee shall serve without compensation 52280
but shall be reimbursed for actual and necessary expenses incurred 52281
in carrying out duties as members of the committee. 52282

The committee shall select a chairperson and vice-chairperson 52283
from among its members. A majority of all members of the committee 52284
shall constitute a quorum. No action shall be taken without the 52285
concurrence of a majority of all members of the committee. The 52286
committee shall meet at the call of the chair, upon written 52287
request of five members of the committee, and at the direction of 52288
the state board of emergency medical, fire, and transportation 52289
services. The committee shall not meet at times or locations that 52290
conflict with meetings of the board. The executive director and 52291
medical director of the state board of emergency medical, fire, 52292
and transportation services may participate in any meeting of the 52293
committee and shall do so at the request of the committee. 52294

The committee shall advise and assist the state board of 52295
emergency medical, fire, and transportation services in matters 52296
related to adult and pediatric trauma care and the establishment 52297
and operation of the state trauma registry. In matters relating to 52298
the state trauma registry, the board and the committee shall 52299
consult with trauma registrars from adult and pediatric trauma 52300
centers in the state. The committee may appoint a subcommittee to 52301

advise and assist with the trauma registry. The subcommittee may 52302
include persons with expertise relevant to the trauma registry who 52303
are not members of the board or committee. 52304

(C) The state board of emergency medical, fire, and 52305
transportation services may appoint other committees and 52306
subcommittees as it considers necessary. 52307

(D) The state board of emergency medical, fire, and 52308
transportation services, and any of its committees or 52309
subcommittees, may request assistance from any state agency. The 52310
board and its committees and subcommittees may permit persons who 52311
are not members of those bodies to participate in deliberations of 52312
those bodies, but no person who is not a member of the board shall 52313
vote on the board and no person who is not a member of a committee 52314
created under division (A) or (B) of this section shall vote on 52315
that committee. 52316

(E) Sections 101.82 to 101.87 of the Revised Code do not 52317
apply to the committees established under division (A) or (B) of 52318
this section. 52319

Sec. 4765.05. (A) As used in this section, "prehospital 52320
emergency medical services" means an emergency medical services 52321
system that provides medical services to patients who require 52322
immediate assistance, because of illness or injury, prior to their 52323
arrival at an emergency medical facility. 52324

(B) The state board of emergency medical, fire, and 52325
transportation services shall divide the state geographically into 52326
prehospital emergency medical services regions for purposes of 52327
overseeing the delivery of adult and pediatric prehospital 52328
emergency medical services. For each prehospital emergency medical 52329
services region, the state board of emergency medical, fire, and 52330
transportation services shall appoint either a physician to serve 52331
as the regional director or a physician advisory board to serve as 52332

the regional advisory board. The state board of emergency medical, 52333
fire, and transportation services shall specify the duties of each 52334
regional director and regional advisory board. Regional directors 52335
and members of regional advisory boards shall serve without 52336
compensation, but shall be reimbursed for actual and necessary 52337
expenses incurred in carrying out duties as regional directors and 52338
members of regional advisory boards. 52339

(C) Nothing in this section shall be construed to limit in 52340
any way the ability of a hospital to determine the market area of 52341
that hospital. 52342

Sec. 4765.06. (A) The state board of emergency medical, fire, 52343
and transportation services shall establish an emergency medical 52344
services incidence reporting system for the collection of 52345
information regarding the delivery of emergency medical services 52346
in this state and the frequency at which the services are 52347
provided. All emergency medical service organizations shall submit 52348
to the board any information that the board determines is 52349
necessary for maintaining the incidence reporting system. 52350

(B) The board shall establish a state trauma registry to be 52351
used for the collection of information regarding the care of adult 52352
and pediatric trauma victims in this state. The registry shall 52353
provide for the reporting of adult and pediatric trauma-related 52354
deaths, identification of adult and pediatric trauma patients, 52355
monitoring of adult and pediatric trauma patient care data, 52356
determination of the total amount of uncompensated adult and 52357
pediatric trauma care provided annually by each facility that 52358
provides care to trauma victims, and collection of any other 52359
information specified by the board. All persons designated by the 52360
board shall submit to the board any information it determines is 52361
necessary for maintaining the state trauma registry. At the 52362
request of the board any state agency possessing information 52363

regarding adult or pediatric trauma care shall provide the 52364
information to the board. The board shall maintain the state 52365
trauma registry in accordance with rules adopted under section 52366
4765.11 of the Revised Code. 52367

Rules relating to the state trauma registry adopted under 52368
this section and section 4765.11 of the Revised Code shall not 52369
prohibit the operation of other trauma registries and may provide 52370
for the reporting of information to the state trauma registry by 52371
or through other trauma registries in a manner consistent with 52372
information otherwise reported to the state trauma registry. Other 52373
trauma registries may report aggregate information to the state 52374
trauma registry, provided the information can be matched to the 52375
person that reported it. Information maintained by another trauma 52376
registry and reported to the state trauma registry in lieu of 52377
being reported directly to the state trauma registry is a public 52378
record and shall be maintained, made available to the public, held 52379
in confidence, risk adjusted, and not subject to discovery or 52380
introduction into evidence in a civil action as provided in 52381
section 149.43 of the Revised Code and this section. Any person 52382
who provides, maintains, or risk adjusts such information shall 52383
comply with this section and rules adopted under it in performing 52384
that function and has the same immunities with respect to that 52385
function as a person who performs that function with respect to 52386
the state trauma registry. 52387

(C) The board and any employee or contractor of the board or 52388
the department of public safety shall not make public information 52389
it receives under Chapter 4765. of the Revised Code that 52390
identifies or would tend to identify a specific recipient of 52391
emergency medical services or adult or pediatric trauma care. 52392

(D) Not later than two years after ~~the effective date of this~~ 52393
~~amendment~~ November 3, 2000, the board shall adopt and implement 52394
rules under section 4765.11 of the Revised Code that provide 52395

written standards and procedures for risk adjustment of 52396
information received by the board under Chapter 4765. of the 52397
Revised Code. The rules shall be developed in consultation with 52398
appropriate medical, hospital, and emergency medical service 52399
organizations and may provide for risk adjustment by a contractor 52400
of the board. Before risk adjustment standards and procedures are 52401
implemented, no member of the board and no employee or contractor 52402
of the board or the department of public safety shall make public 52403
information received by the board under Chapter 4765. of the 52404
Revised Code that identifies or would tend to identify a specific 52405
provider of emergency medical services or adult or pediatric 52406
trauma care. After risk adjustment standards and procedures are 52407
implemented, the board shall make public such information only on 52408
a risk adjusted basis. 52409

(E) The board shall adopt rules under section 4765.11 of the 52410
Revised Code that specify procedures for ensuring the 52411
confidentiality of information that is not to be made public under 52412
this section. The rules shall specify the circumstances in which 52413
deliberations of the persons performing risk adjustment functions 52414
under this section are not open to the public and records of those 52415
deliberations are maintained in confidence. Nothing in this 52416
section prohibits the board from making public statistical 52417
information that does not identify or tend to identify a specific 52418
recipient or provider of emergency medical services or adult or 52419
pediatric trauma care. 52420

(F) No provider that furnishes information to the board with 52421
respect to any patient the provider examined or treated shall, 52422
because of this furnishing, be deemed liable in damages to any 52423
person or be held to answer for betrayal of a professional 52424
confidence in the absence of willful or wanton misconduct. No such 52425
information shall be subject to introduction in evidence in any 52426
civil action against the provider. No provider that furnishes 52427

information to the board shall be liable for the misuse or 52428
improper release of the information by the board or any other 52429
person. 52430

No person who performs risk adjustment functions under this 52431
section shall, because of performing such functions, be held 52432
liable in a civil action for betrayal of professional confidence 52433
or otherwise in the absence of willful or wanton misconduct. 52434

Sec. 4765.07. (A) The state board of emergency medical, fire, 52435
and transportation services shall adopt rules under section 52436
4765.11 of the Revised Code to establish and administer a grant 52437
program under which grants are distributed according to the 52438
following priorities: 52439

(1) First priority shall be given to emergency medical 52440
service organizations for the training of personnel, for the 52441
purchase of equipment and vehicles, and to improve the 52442
availability, accessibility, and quality of emergency medical 52443
services in this state. In this category, the board shall give 52444
priority to grants that fund training and equipping of emergency 52445
medical service personnel. 52446

(2) Second priority shall be given to entities that research, 52447
test, and evaluate medical procedures and systems related to adult 52448
and pediatric trauma care. 52449

(3) Third priority shall be given to entities that research 52450
the causes, nature, and effects of traumatic injuries, educate the 52451
public about injury prevention, and implement, test, and evaluate 52452
injury prevention strategies. 52453

(4) Fourth priority shall be given to entities that research, 52454
test, and evaluate procedures that promote the rehabilitation, 52455
retraining, and reemployment of adult or pediatric trauma victims 52456
and social service support mechanisms for adult or pediatric 52457

trauma victims and their families. 52458

(5) Fifth priority shall be given to entities that conduct 52459
research on, test, or evaluate one or more of the following: 52460

(a) Procedures governing the performance of emergency medical 52461
services in this state; 52462

(b) The training of emergency medical service personnel; 52463

(c) The staffing of emergency medical service organizations. 52464

(6) For grants distributed for the grant award years 52465
occurring not later than the award year ending June 30, 2017, 52466
sixth priority shall be given to entities that operate paramedic 52467
training programs and are seeking national accreditation of the 52468
programs. 52469

(B) To be eligible for a grant distributed pursuant to 52470
division (A)(6) of this section, an applicant for the grant shall 52471
meet all of the following conditions: 52472

(1) Hold a certificate of accreditation issued by the board 52473
under section 4765.17 of the Revised Code to operate a paramedic 52474
training program; 52475

(2) Be seeking initial national accreditation of the program 52476
from an accrediting organization approved by the board; 52477

(3) Apply for the national accreditation on or after February 52478
25, 2010. 52479

(C) The grant program shall be funded from the trauma and 52480
emergency medical services ~~grants~~ fund created by section 4513.263 52481
of the Revised Code. 52482

Sec. 4765.08. The state board of emergency medical, fire, and 52483
transportation services shall prepare a statewide emergency 52484
medical services plan and shall revise the plan as necessary. 52485

The board shall prepare a plan for the statewide regulation 52486

of emergency medical services during periods of disaster. The plan 52487
shall be consistent with the statewide emergency medical services 52488
plan required under this section and with the statewide emergency 52489
operations plan required under section 5502.22 of the Revised 52490
Code. The board shall submit the plan to the emergency management 52491
agency created under section 5502.22 of the Revised Code. The 52492
board shall cooperate with the agency in any other manner the 52493
agency considers necessary to develop and implement the statewide 52494
emergency operations plan. 52495

Sec. 4765.09. The state board of emergency medical, fire, and 52496
transportation services shall prepare recommendations for the 52497
operation of ambulance service organizations, air medical 52498
organizations, and emergency medical service organizations. Within 52499
thirty days following the preparation or modification of 52500
recommendations, the board shall notify the board of county 52501
commissioners of any county, the board of township trustees of any 52502
township, the board of trustees of any joint ambulance district, 52503
or the board of trustees of any joint emergency medical services 52504
district in which there exist ambulance service organizations, air 52505
medical organizations, or emergency medical service organizations 52506
of any board recommendations for the operation of such 52507
organizations. The recommendations shall include, but not be 52508
limited to: 52509

(A) The definition and classification of ambulances and 52510
medical aircraft; 52511

(B) The design, equipment, and supplies for ambulances and 52512
medical aircraft, including special equipment, supplies, training, 52513
and staffing required to assist pediatric and geriatric emergency 52514
victims; 52515

(C) The minimum number and type of personnel for the 52516
operation of ambulances and medical aircraft; 52517

(D) The communication systems necessary for the operation of 52518
ambulances and medical aircraft; 52519

(E) Reports to be made by persons holding certificates of 52520
accreditation or approval issued under section 4765.17 of the 52521
Revised Code and certificates to practice issued under section 52522
4765.30 of the Revised Code to ascertain compliance with this 52523
chapter and the rules and recommendations adopted thereunder and 52524
to ascertain the quantity and quality of ambulance service 52525
organizations, air medical organizations, and emergency medical 52526
service organizations throughout the state. 52527

Sec. 4765.10. (A) The state board of emergency medical, fire, 52528
and transportation services shall do all of the following: 52529

(1) Administer and enforce the provisions of this chapter and 52530
the rules adopted under it; 52531

(2) Approve, in accordance with procedures established in 52532
rules adopted under section 4765.11 of the Revised Code, 52533
examinations that demonstrate competence to have a certificate to 52534
practice renewed without completing a continuing education 52535
program; 52536

(3) Advise applicants for state or federal emergency medical 52537
services funds, review and comment on applications for these 52538
funds, and approve the use of all state and federal funds 52539
designated solely for emergency medical service programs unless 52540
federal law requires another state agency to approve the use of 52541
all such federal funds; 52542

(4) Serve as a statewide clearinghouse for discussion, 52543
inquiry, and complaints concerning emergency medical services; 52544

(5) Make recommendations to the general assembly on 52545
legislation to improve the delivery of emergency medical services; 52546

(6) Maintain a toll-free long distance telephone number 52547

through which it shall respond to questions about emergency 52548
medical services; 52549

(7) Work with appropriate state offices in coordinating the 52550
training of firefighters and emergency medical service personnel. 52551
Other state offices that are involved in the training of 52552
firefighters or emergency medical service personnel shall 52553
cooperate with the board and its committees and subcommittees to 52554
achieve this goal. 52555

(8) Provide a liaison to the state emergency operation center 52556
during those periods when a disaster, as defined in section 52557
5502.21 of the Revised Code, has occurred in this state and the 52558
governor has declared an emergency as defined in that section. 52559

(B) The board may do any of the following: 52560

(1) Investigate complaints concerning emergency medical 52561
services and emergency medical service organizations as it 52562
determines necessary; 52563

(2) Enter into reciprocal agreements with other states that 52564
have standards for accreditation of emergency medical services 52565
training programs and for certification of first responders, 52566
EMTs-basic, EMTs-I, paramedics, firefighters, or fire safety 52567
inspectors that are substantially similar to those established 52568
under this chapter and the rules adopted under it; 52569

(3) Establish a statewide public information system and 52570
public education programs regarding emergency medical services; 52571

(4) Establish an injury prevention program. 52572

Sec. 4765.101. (A) The state board of emergency medical, 52573
fire, and transportation services shall investigate any allegation 52574
that a person has violated this chapter or a rule adopted under 52575
it. 52576

Any person may submit to the board a written complaint 52577

regarding an alleged violation of this chapter or a rule adopted 52578
under it. In the absence of fraud or bad faith, no person 52579
submitting a complaint to the board or testifying in an 52580
adjudication hearing conducted in accordance with Chapter 119. of 52581
the Revised Code with regard to such an alleged violation shall be 52582
liable to any person in damages in a civil action as a result of 52583
submitting the complaint or providing testimony. 52584

(B) In investigating an allegation, the board may do any of 52585
the following: 52586

(1) Administer oaths; 52587

(2) Order the taking of depositions; 52588

(3) Issue subpoenas; 52589

(4) Compel the attendance of witnesses and production of 52590
books, accounts, papers, records, documents, and testimony. 52591

(C) A subpoena for patient record information shall not be 52592
issued without consultation with the attorney general's office and 52593
approval of the executive director of the board. Before issuance 52594
of a subpoena for patient record information, the executive 52595
director shall determine whether there is probable cause to 52596
believe that the complaint filed alleges a violation of this 52597
chapter or any rule adopted under it and that the records sought 52598
are relevant to the alleged violation and material to the 52599
investigation. The subpoena may apply only to records that cover a 52600
reasonable period of time surrounding the alleged violation. 52601

(D) On failure to comply with any subpoena issued by the 52602
board and after reasonable notice to the person being subpoenaed, 52603
the board may move, pursuant to the Rules of Civil Procedure, for 52604
an order compelling the production of persons or records. 52605

(E) A subpoena issued by the board may be served by a 52606
sheriff, the sheriff's deputy, or an investigator for the division 52607

of emergency medical services of the department of public safety. 52608
Service of a subpoena issued by the board may be made by 52609
delivering a copy of the subpoena to the person named in it, 52610
reading it to the person, or leaving it at the person's usual 52611
place of residence. When the person being served is an individual 52612
authorized by this chapter to practice emergency medical services, 52613
service of the subpoena may be made by certified mail, restricted 52614
delivery, return receipt requested, and the subpoena shall be 52615
deemed served on the date delivery is made or on the date that the 52616
person refuses to accept delivery. 52617

Sec. 4765.102. (A) As used in this section, "licensing 52618
agency" means any entity that has the authority pursuant to Title 52619
XLVII of the Revised Code to issue a license, and any other agency 52620
of this or another state, other than the Ohio supreme court, that 52621
has the authority to issue a license that authorizes an individual 52622
to engage in an occupation or profession. "Licensing agency" 52623
includes an administrative officer that has authority to issue a 52624
license that authorizes an individual to engage in an occupation 52625
or profession. 52626

(B) Except as provided in divisions (C) and (D) of this 52627
section and section 4765.111 of the Revised Code, all information 52628
the state board of emergency medical, fire, and transportation 52629
services receives pursuant to an investigation, including 52630
information regarding an alleged violation of this chapter or 52631
rules adopted under it or a complaint submitted under division (A) 52632
of section 4765.101 of the Revised Code, is confidential, and is 52633
not subject to discovery in any civil action, during the course of 52634
the investigation and any adjudication proceedings that result 52635
from the investigation. Upon completion of the investigation and 52636
any resulting adjudication proceedings, the information is a 52637
matter of public record for purposes of section 149.43 of the 52638
Revised Code. 52639

(C) The board may release information otherwise made 52640
confidential by division (B) of this section to law enforcement 52641
officers or licensing agencies of this or another state that are 52642
prosecuting, adjudicating, or investigating the holder of a 52643
certificate issued under this chapter or a person who allegedly 52644
engaged in the unauthorized provision of emergency medical 52645
services. 52646

A law enforcement officer or licensing agency with 52647
information disclosed by the board under this division shall not 52648
divulge the information other than for the purpose of an 52649
adjudication by a court or licensing agency to which the subject 52650
of the adjudication is a party. 52651

(D) If an investigation conducted under section 4765.101 of 52652
the Revised Code requires a review of patient records, the 52653
investigation and proceedings related to it shall be conducted in 52654
such a manner as to protect patient confidentiality. The board 52655
shall not make public the name or any other identifying 52656
information about a patient unless proper consent is given in 52657
accordance with rules adopted by the board. If the patient is less 52658
than eighteen years of age, the board shall obtain consent from 52659
the patient's parent, guardian, or custodian. 52660

Sec. 4765.11. (A) The state board of emergency medical, fire, 52661
and transportation services shall adopt, and may amend and 52662
rescind, rules in accordance with Chapter 119. of the Revised Code 52663
and division (C) of this section that establish all of the 52664
following: 52665

(1) Procedures for its governance and the control of its 52666
actions and business affairs; 52667

(2) Standards for the performance of emergency medical 52668
services by first responders, emergency medical technicians-basic, 52669
emergency medical technicians-intermediate, and emergency medical 52670

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| technicians-paramedic; | 52671 |
| (3) Application fees for certificates of accreditation, | 52672 |
| certificates of approval, certificates to teach, and certificates | 52673 |
| to practice, which shall be deposited into the trauma and | 52674 |
| emergency medical services fund created in section 4513.263 of the | 52675 |
| Revised Code; | 52676 |
| (4) Criteria for determining when the application or renewal | 52677 |
| fee for a certificate to practice may be waived because an | 52678 |
| applicant cannot afford to pay the fee; | 52679 |
| (5) Procedures for issuance and renewal of certificates of | 52680 |
| accreditation, certificates of approval, certificates to teach, | 52681 |
| and certificates to practice, including any procedures necessary | 52682 |
| to ensure that adequate notice of renewal is provided in | 52683 |
| accordance with division (D) of section 4765.30 of the Revised | 52684 |
| Code; | 52685 |
| (6) Procedures for suspending or revoking certificates of | 52686 |
| accreditation, certificates of approval, certificates to teach, | 52687 |
| and certificates to practice; | 52688 |
| (7) Grounds for suspension or revocation of a certificate to | 52689 |
| practice issued under section 4765.30 of the Revised Code and for | 52690 |
| taking any other disciplinary action against a first responder, | 52691 |
| EMT-basic, EMT-I, or paramedic; | 52692 |
| (8) Procedures for taking disciplinary action against a first | 52693 |
| responder, EMT-basic, EMT-I, or paramedic; | 52694 |
| (9) Standards for certificates of accreditation and | 52695 |
| certificates of approval; | 52696 |
| (10) Qualifications for certificates to teach; | 52697 |
| (11) Requirements for a certificate to practice; | 52698 |
| (12) The curricula, number of hours of instruction and | 52699 |
| training, and instructional materials to be used in adult and | 52700 |

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| pediatric emergency medical services training programs and adult | 52701 |
| and pediatric emergency medical services continuing education | 52702 |
| programs; | 52703 |
| (13) Procedures for conducting courses in recognizing | 52704 |
| symptoms of life-threatening allergic reactions and in calculating | 52705 |
| proper dosage levels and administering injections of epinephrine | 52706 |
| to adult and pediatric patients who suffer life-threatening | 52707 |
| allergic reactions; | 52708 |
| (14) Examinations for certificates to practice; | 52709 |
| (15) Procedures for administering examinations for | 52710 |
| certificates to practice; | 52711 |
| (16) Procedures for approving examinations that demonstrate | 52712 |
| competence to have a certificate to practice renewed without | 52713 |
| completing an emergency medical services continuing education | 52714 |
| program; | 52715 |
| (17) Procedures for granting extensions and exemptions of | 52716 |
| emergency medical services continuing education requirements; | 52717 |
| (18) Procedures for approving the additional emergency | 52718 |
| medical services first responders are authorized by division (C) | 52719 |
| of section 4765.35 of the Revised Code to perform, EMTs-basic are | 52720 |
| authorized by division (C) of section 4765.37 of the Revised Code | 52721 |
| to perform, EMTs-I are authorized by division (B)(5) of section | 52722 |
| 4765.38 of the Revised Code to perform, and paramedics are | 52723 |
| authorized by division (B)(6) of section 4765.39 of the Revised | 52724 |
| Code to perform; | 52725 |
| (19) Standards and procedures for implementing the | 52726 |
| requirements of section 4765.06 of the Revised Code, including | 52727 |
| designations of the persons who are required to report information | 52728 |
| to the board and the types of information to be reported; | 52729 |
| (20) Procedures for administering the emergency medical | 52730 |

services grant program established under section 4765.07 of the Revised Code; 52731
52732

(21) Procedures consistent with Chapter 119. of the Revised Code for appealing decisions of the board; 52733
52734

(22) Minimum qualifications and peer review and quality improvement requirements for persons who provide medical direction to emergency medical service personnel; 52735
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(23) The manner in which a patient, or a patient's parent, guardian, or custodian may consent to the board releasing identifying information about the patient under division (D) of section 4765.102 of the Revised Code; 52738
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(24) Circumstances under which a training program or continuing education program, or portion of either type of program, may be taught by a person who does not hold a certificate to teach issued under section 4765.23 of the Revised Code; 52742
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(25) Certification cycles for certificates issued under sections 4765.23 and 4765.30 of the Revised Code and certificates issued by the executive director of the state board of emergency medical, fire, and transportation services under section 4765.55 of the Revised Code that establish a common expiration date for all certificates. 52746
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(B) The board may adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code and division (C) of this section that establish the following: 52752
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(1) Specifications of information that may be collected under the trauma system registry and incidence reporting system created under section 4765.06 of the Revised Code; 52755
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52757

(2) Standards and procedures for implementing any of the recommendations made by any committees of the board or under section 4765.04 of the Revised Code; 52758
52759
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(3) Requirements that a person must meet to receive a certificate to practice as a first responder pursuant to division (A)(2) of section 4765.30 of the Revised Code;

(4) Any other rules necessary to implement this chapter.

(C) In developing and administering rules adopted under this chapter, the state board of emergency medical, fire, and transportation services shall consult with regional directors and regional physician advisory boards created by section 4765.05 of the Revised Code and emphasize the special needs of pediatric and geriatric patients.

(D) Except as otherwise provided in this division, before adopting, amending, or rescinding any rule under this chapter, the board shall submit the proposed rule to the director of public safety for review. The director may review the proposed rule for not more than sixty days after the date it is submitted. If, within this sixty-day period, the director approves the proposed rule or does not notify the board that the rule is disapproved, the board may adopt, amend, or rescind the rule as proposed. If, within this sixty-day period, the director notifies the board that the proposed rule is disapproved, the board shall not adopt, amend, or rescind the rule as proposed unless at least twelve members of the board vote to adopt, amend, or rescind it.

This division does not apply to an emergency rule adopted in accordance with section 119.03 of the Revised Code.

Sec. 4765.111. Except as provided in this section or sections 4765.112 to 4765.116 of the Revised Code, the state board of emergency medical, fire, and transportation services shall conduct disciplinary proceedings regarding the holder of a certificate issued under this chapter in accordance with rules adopted by the board under section 4765.11 of the Revised Code.

The board and a holder of a certificate are the parties to a hearing conducted under this chapter. Either party may submit a written request to the other party for a list of witnesses and copies of documents intended to be introduced at the hearing. The request shall be in writing and shall be served not less than thirty-seven days prior to the commencement of the hearing, unless the hearing officer or presiding board member grants an extension of time to make the request. Not later than thirty days before the hearing, the responding party shall provide the requested list of witnesses and copies of documents to the requesting party, unless the hearing officer or presiding board member grants an extension of time to provide the list and copies.

Failure to timely provide a list or copies requested in accordance with this section shall result in exclusion from the hearing of the witnesses, testimony, or documents.

Sec. 4765.112. (A) The state board of emergency medical, fire, and transportation services, by an affirmative vote of the majority of its members, may suspend without a prior hearing a certificate to practice issued under this chapter if the board determines that there is clear and convincing evidence that continued practice by the certificate holder presents a danger of immediate and serious harm to the public and that the certificate holder has done any of the following:

(1) Furnished false, fraudulent, or misleading information to the board;

(2) Engaged in activities that exceed those permitted by the individual's certificate;

(3) In a court of this or any other state or federal court been convicted of, pleaded guilty to, or been the subject of a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of

eligibility for intervention in lieu of conviction for, a felony 52822
or for a misdemeanor committed in the course of practice or 52823
involving gross immorality or moral turpitude. 52824

(B) Immediately following the decision to impose a summary 52825
suspension, the board, in accordance with section 119.07 of the 52826
Revised Code, shall issue a written order of suspension, cause it 52827
to be delivered to the certificate holder, and notify the 52828
certificate holder of the opportunity for a hearing. If timely 52829
requested by the certificate holder, a hearing shall be conducted 52830
in accordance with section 4765.115 of the Revised Code. 52831

Sec. 4765.113. If the state board of emergency medical, fire, 52832
and transportation services imposes a suspension on the basis of a 52833
conviction, judicial finding, or plea as described in division 52834
(A)(3) of section 4765.112 of the Revised Code that is overturned 52835
on appeal, the certificate holder, on exhaustion of the criminal 52836
appeal process, may file with the board a petition for 52837
reconsideration of the suspension along with appropriate court 52838
documents. On receipt of the petition and documents, the board 52839
shall reinstate the certificate holder's certificate to practice. 52840

Sec. 4765.114. (A) A certificate to practice emergency 52841
medical services issued under this chapter is automatically 52842
suspended on the certificate holder's conviction of, plea of 52843
guilty to, or judicial finding of guilt of any of the following: 52844
aggravated murder, murder, voluntary manslaughter, felonious 52845
assault, kidnapping, rape, sexual battery, gross sexual 52846
imposition, aggravated arson, aggravated burglary, aggravated 52847
robbery, or a substantially equivalent offense committed in this 52848
or another jurisdiction. Continued practice after the suspension 52849
is practicing without a certificate. 52850

(B) If the state board of emergency medical, fire, and 52851

transportation services has knowledge that an automatic suspension 52852
has occurred, it shall notify, in accordance with section 119.07 52853
of the Revised Code, the certificate holder of the suspension and 52854
of the opportunity for a hearing. If timely requested by the 52855
certificate holder, a hearing shall be conducted in accordance 52856
with section 4765.115 of the Revised Code. 52857

Sec. 4765.115. (A) A suspension order issued under section 52858
4765.112 or automatic suspension under section 4765.114 of the 52859
Revised Code is not subject to suspension by a court prior to a 52860
hearing under this section or during the pendency of any appeal 52861
filed under section 119.12 of the Revised Code. 52862

(B) A suspension order issued under section 4765.112 or 52863
automatic suspension under section 4765.114 of the Revised Code 52864
remains in effect, unless reversed by the state board of emergency 52865
medical, fire, and transportation services, until a final 52866
adjudication order issued by the board pursuant to this section 52867
becomes effective. 52868

(C) Hearings requested pursuant to section 4765.112 or 52869
4765.114 of the Revised Code shall be conducted under this section 52870
in accordance with Chapter 119. of the Revised Code. 52871

(D) A hearing under this section shall be held not later than 52872
forty-five days but not earlier than forty days after the 52873
certificate holder requests it, unless another date is agreed to 52874
by the certificate holder and the board. 52875

(E) After completion of an adjudication hearing, the board 52876
may adopt, by an affirmative vote of the majority of its members, 52877
a final adjudication order that imposes any of the following 52878
sanctions: 52879

(1) Suspension of the holder's certificate to practice; 52880

(2) Revocation of the holder's certificate to practice; 52881

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|---|---|
| (3) Issuance of a written reprimand; | 52882 |
| (4) A refusal to renew or a limitation on the holder's certificate to practice. | 52883 52884 |
| The board shall issue its final adjudication order not later than forty-five days after completion of an adjudication hearing. | 52885 52886 |
| If the board does not issue a final order within that time period, the suspension order is void, but any final adjudication order subsequently issued is not affected. | 52887 52888 52889 |
| (F) Any action taken by the board under this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the certificate to practice may be reinstated. Reinstatement of a certificate suspended under this section requires an affirmative vote by the majority of the members of the board. | 52890 52891 52892 52893 52894 52895 |
| (G) When the board revokes or refuses to reinstate a certificate to practice, the board may specify that its action is permanent. An individual subject to permanent action taken by the board is forever ineligible to hold a certificate of the type revoked or refused, and the board shall not accept from the individual an application for reinstatement of the certificate or for a new certificate. | 52896 52897 52898 52899 52900 52901 52902 |
| Sec. 4765.116. If a certificate holder subject to a suspension order issued by the state board of emergency medical, <u>fire, and transportation</u> services under section 4765.112 or an automatic suspension order under section 4765.114 of the Revised Code fails to make a timely request for a hearing, the following apply: | 52903 52904 52905 52906 52907 52908 |
| (A) In the case of a certificate holder subject to a summary suspension order, the board is not required to hold a hearing, but may adopt, by an affirmative vote of a majority of its members, a | 52909 52910 52911 |

final order that contains the board's findings. In the final 52912
order, the board may order any of the sanctions listed in division 52913
(E) of section 4765.115 of the Revised Code. 52914

(B) In the case of a certificate holder subject to an 52915
automatic suspension order, the board may adopt, by an affirmative 52916
vote of a majority of its members, a final order that permanently 52917
revokes the holder's certificate to practice. 52918

Sec. 4765.12. (A) Not later than two years after ~~the~~ 52919
~~effective date of this section~~ November 3, 2000, the state board 52920
of emergency medical and transportation services shall develop and 52921
distribute guidelines for the care of trauma victims by emergency 52922
medical service personnel and for the conduct of peer review and 52923
quality assurance programs by emergency medical service 52924
organizations. The guidelines shall be consistent with the state 52925
trauma triage protocols adopted in rules under sections 4765.11 52926
and 4765.40 of the Revised Code and shall place emphasis on the 52927
special needs of pediatric and geriatric trauma victims. In 52928
developing the guidelines, the board shall consult with entities 52929
with interests in trauma and emergency medical services and shall 52930
consider any relevant guidelines adopted by national 52931
organizations, including the American college of surgeons, 52932
American college of emergency physicians, and American academy of 52933
pediatrics. The board shall distribute the guidelines, and 52934
amendments to the guidelines, to each emergency medical service 52935
organization, regional director, regional physician advisory 52936
board, certified emergency medical service instructor, and person 52937
who regularly provides medical direction to emergency medical 52938
service personnel in this state. 52939

(B) Not later than three years after ~~the effective date of~~ 52940
~~this section~~ November 3, 2000, each emergency medical service 52941
organization in this state shall implement ongoing peer review and 52942

quality assurance programs designed to improve the availability 52943
and quality of the emergency medical services it provides. The 52944
form and content of the programs shall be determined by each 52945
emergency medical service organization. In implementing the 52946
programs, each emergency medical service organization shall 52947
consider how to improve its ability to provide effective trauma 52948
care, particularly for pediatric and geriatric trauma victims, and 52949
shall take into account the trauma care guidelines developed by 52950
the state board of emergency medical, fire, and transportation 52951
services under this section. 52952

Information generated solely for use in a peer review or 52953
quality assurance program conducted on behalf of an emergency 52954
medical service organization is not a public record under section 52955
149.43 of the Revised Code. Such information, and any discussion 52956
conducted in the course of a peer review or quality assurance 52957
program conducted on behalf of an emergency medical service 52958
organization, is not subject to discovery in a civil action and 52959
shall not be introduced into evidence in a civil action against 52960
the emergency medical service organization on whose behalf the 52961
information was generated or the discussion occurred. 52962

No emergency medical service organization on whose behalf a 52963
peer review or quality assurance program is conducted, and no 52964
person who conducts such a program, because of performing such 52965
functions, shall be liable in a civil action for betrayal of 52966
professional confidence or otherwise in the absence of willful or 52967
wanton misconduct. 52968

Sec. 4765.15. A person seeking to operate an emergency 52969
medical services training program shall submit a completed 52970
application for accreditation to the state board of emergency 52971
medical, fire, and transportation services on a form the board 52972
shall prescribe and furnish. The application shall be accompanied 52973

by the appropriate application fee established in rules adopted 52974
under section 4765.11 of the Revised Code. 52975

A person seeking to operate an emergency medical services 52976
continuing education program shall submit a completed application 52977
for approval to the board on a form the board shall prescribe and 52978
furnish. The application shall be accompanied by the appropriate 52979
application fee established in rules adopted under section 4765.11 52980
of the Revised Code. 52981

The board shall administer the accreditation and approval 52982
processes pursuant to rules adopted under section 4765.11 of the 52983
Revised Code. In administering these processes, the board may 52984
authorize other persons to evaluate applications for accreditation 52985
or approval and may accept the recommendations made by those 52986
persons. 52987

The board may cause an investigation to be made into the 52988
accuracy of the information submitted in any application for 52989
accreditation or approval. If an investigation indicates that 52990
false, misleading, or incomplete information has been submitted to 52991
the board in connection with any application for accreditation or 52992
approval, the board shall conduct a hearing on the matter in 52993
accordance with Chapter 119. of the Revised Code. 52994

Sec. 4765.16. (A) All courses offered through an emergency 52995
medical services training program or an emergency medical services 52996
continuing education program, other than ambulance driving, shall 52997
be developed under the direction of a physician who specializes in 52998
emergency medicine. Each course that deals with trauma care shall 52999
be developed in consultation with a physician who specializes in 53000
trauma surgery. Except as specified by the state board of 53001
emergency medical, fire, and transportation services pursuant to 53002
rules adopted under section 4765.11 of the Revised Code, each 53003
course offered through a training program or continuing education 53004

program shall be taught by a person who holds the appropriate 53005
certificate to teach issued under section 4765.23 of the Revised 53006
Code. 53007

(B) A training program for first responders shall meet the 53008
standards established in rules adopted by the board under section 53009
4765.11 of the Revised Code. The program shall include courses in 53010
both of the following areas for at least the number of hours 53011
established by the board's rules: 53012

(1) Emergency victim care; 53013

(2) Reading and interpreting a trauma victim's vital signs. 53014

(C) A training program for emergency medical 53015
technicians-basic shall meet the standards established in rules 53016
adopted by the board under section 4765.11 of the Revised Code. 53017
The program shall include courses in each of the following areas 53018
for at least the number of hours established by the board's rules: 53019

(1) Emergency victim care; 53020

(2) Reading and interpreting a trauma victim's vital signs; 53021

(3) Triage protocols for adult and pediatric trauma victims; 53022

(4) In-hospital training; 53023

(5) Clinical training; 53024

(6) Training as an ambulance driver. 53025

Each operator of a training program for emergency medical 53026
technicians-basic shall allow any pupil in the twelfth grade in a 53027
secondary school who is at least seventeen years old and who 53028
otherwise meets the requirements for admission into such a 53029
training program to be admitted to and complete the program and, 53030
as part of the training, to ride in an ambulance with emergency 53031
medical technicians-basic, emergency medical 53032
technicians-intermediate, and emergency medical 53033
technicians-paramedic. Each emergency medical service organization 53034

shall allow pupils participating in training programs to ride in an ambulance with emergency medical technicians-basic, advanced emergency medical technicians-intermediate, and emergency medical technicians-paramedic.

(D) A training program for emergency medical technicians-intermediate shall meet the standards established in rules adopted by the board under section 4765.11 of the Revised Code. The program shall include, or require as a prerequisite, the training specified in division (C) of this section and courses in each of the following areas for at least the number of hours established by the board's rules:

(1) Recognizing symptoms of life-threatening allergic reactions and in calculating proper dosage levels and administering injections of epinephrine to persons who suffer life-threatening allergic reactions, conducted in accordance with rules adopted by the board under section 4765.11 of the Revised Code;

(2) Venous access procedures;

(3) Cardiac monitoring and electrical interventions to support or correct the cardiac function.

(E) A training program for emergency medical technicians-paramedic shall meet the standards established in rules adopted by the board under section 4765.11 of the Revised Code. The program shall include, or require as a prerequisite, the training specified in divisions (C) and (D) of this section and courses in each of the following areas for at least the number of hours established by the board's rules:

(1) Medical terminology;

(2) Venous access procedures;

(3) Airway procedures;

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|--|--|
| (4) Patient assessment and triage; | 53065 |
| (5) Acute cardiac care, including administration of parenteral injections, electrical interventions, and other emergency medical services; | 53066 53067 53068 |
| (6) Emergency and trauma victim care beyond that required under division (C) of this section; | 53069 53070 |
| (7) Clinical training beyond that required under division (C) of this section. | 53071 53072 |
| (F) A continuing education program for first responders, EMTs-basic, EMTs-I, or paramedics shall meet the standards established in rules adopted by the board under section 4765.11 of the Revised Code. A continuing education program shall include instruction and training in subjects established by the board's rules for at least the number of hours established by the board's rules. | 53073 53074 53075 53076 53077 53078 53079 |
| Sec. 4765.17. (A) The state board of emergency medical, <u>fire,</u> <u>and transportation</u> services shall issue the appropriate certificate of accreditation or certificate of approval to an applicant who is of good reputation and meets the requirements of section 4765.16 of the Revised Code. The board shall grant or deny a certificate of accreditation or certificate of approval within one hundred twenty days of receipt of the application. The board may issue or renew a certificate of accreditation or certificate of approval on a provisional basis to an applicant who is of good reputation and is in substantial compliance with the requirements of section 4765.16 of the Revised Code. The board shall inform an applicant receiving such a certificate of the conditions that must be met to complete compliance with section 4765.16 of the Revised Code. | 53080 53081 53082 53083 53084 53085 53086 53087 53088 53089 53090 53091 53092 53093 |
| (B) Except as provided in division (C) of this section, a | 53094 |

certificate of accreditation or certificate of approval is valid 53095
for up to five years and may be renewed by the board pursuant to 53096
procedures and standards established in rules adopted under 53097
section 4765.11 of the Revised Code. An application for renewal 53098
shall be accompanied by the appropriate renewal fee established in 53099
rules adopted under section 4765.11 of the Revised Code. 53100

(C) A certificate of accreditation or certificate of approval 53101
issued on a provisional basis is valid for the length of time 53102
established by the board. If the board finds that the holder of 53103
such a certificate has met the conditions it specifies under 53104
division (A) of this section, the board shall issue the 53105
appropriate certificate of accreditation or certificate of 53106
approval. 53107

(D) A certificate of accreditation is valid only for the 53108
emergency medical services training program or programs for which 53109
it is issued. The holder of a certificate of accreditation may 53110
apply to operate additional training programs in accordance with 53111
rules adopted by the board under section 4765.11 of the Revised 53112
Code. Any additional training programs shall expire on the 53113
expiration date of the applicant's current certificate. A 53114
certificate of approval is valid only for the emergency medical 53115
services continuing education program for which it is issued. 53116
Neither is transferable. 53117

(E) The holder of a certificate of accreditation or a 53118
certificate of approval may offer courses at more than one 53119
location in accordance with rules adopted under section 4765.11 of 53120
the Revised Code. 53121

Sec. 4765.18. The state board of emergency medical, fire, and 53122
transportation services may suspend or revoke a certificate of 53123
accreditation or a certificate of approval issued under section 53124
4765.17 of the Revised Code for any of the following reasons: 53125

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| (A) Violation of this chapter or any rule adopted under it; | 53126 |
| (B) Furnishing of false, misleading, or incomplete information to the board; | 53127 53128 |
| (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; | 53129 53130 53131 53132 |
| (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; | 53133 53134 53135 53136 53137 |
| (E) Violation of any commitment made in an application for a certificate of accreditation or certificate of approval; | 53138 53139 |
| (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; | 53140 53141 53142 53143 53144 53145 53146 |
| (G) Failure to maintain in a safe and sanitary condition premises and equipment used in conducting courses of study; | 53147 53148 |
| (H) Failure to maintain financial resources adequate for the satisfactory conduct of courses of study or to retain a sufficient number of certified instructors; | 53149 53150 53151 |
| (I) Discrimination in the acceptance of students upon the basis of race, color, religion, sex, or national origin. | 53152 53153 |
| Sec. 4765.22. A person seeking a certificate to teach in an emergency medical services training program or an emergency | 53154 53155 |

medical services continuing education program shall submit a 53156
completed application for certification to the state board of 53157
emergency medical, fire, and transportation services on a form the 53158
board shall prescribe and furnish. The application shall be 53159
accompanied by the appropriate application fee established in 53160
rules adopted under section 4765.11 of the Revised Code. 53161

Sec. 4765.23. The state board of emergency medical, fire, and 53162
transportation services shall issue a certificate to teach in an 53163
emergency medical services training program or an emergency 53164
medical services continuing education program to any applicant who 53165
it determines meets the qualifications established in rules 53166
adopted under section 4765.11 of the Revised Code. The certificate 53167
shall indicate each type of instruction and training the 53168
certificate holder may teach under the certificate. 53169

A certificate to teach shall have a certification cycle 53170
established by the board and may be renewed by the board pursuant 53171
to rules adopted under section 4765.11 of the Revised Code. An 53172
application for renewal shall be accompanied by the appropriate 53173
renewal fee established in rules adopted under section 4765.11 of 53174
the Revised Code. 53175

The board may suspend or revoke a certificate to teach 53176
pursuant to rules adopted under section 4765.11 of the Revised 53177
Code. 53178

Sec. 4765.28. A person seeking a certificate to practice as a 53179
first responder, emergency medical technician-basic, emergency 53180
medical technician-intermediate, or emergency medical 53181
technician-paramedic shall submit a completed application for 53182
certification to the state board of emergency medical, fire, and 53183
transportation services on a form the board shall prescribe and 53184
furnish. Except as provided in division (B) of section 4765.29 of 53185

the Revised Code, the application shall include evidence that the applicant received the appropriate certificate of completion pursuant to section 4765.24 of the Revised Code. The application shall be accompanied by the appropriate application 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.

Sec. 4765.29. (A) The state board of emergency medical, fire, and transportation services shall provide for the examination of applicants for certification to practice as first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic. The examinations shall be established by the board in rules adopted under section 4765.11 of the Revised Code. The board may administer the examinations or contract with other persons to administer the examinations. In either case, the examinations shall be administered pursuant to procedures established in rules adopted under section 4765.11 of the Revised Code and shall be offered at various locations in the state selected by the board.

Except as provided in division (B) of this section, an applicant shall not be permitted to take an examination for the same certificate to practice more than three times since last receiving the certificate of completion pursuant to section 4765.24 of the Revised Code that qualifies the applicant to take the examination unless the applicant receives another certificate of completion that qualifies the applicant to take the examination.

(B) On request of an applicant who fails three examinations for the same certificate to practice, the board may direct the applicant to complete a specific portion of an accredited

emergency medical services training program. If the applicant 53217
provides satisfactory proof to the board that the applicant has 53218
successfully completed that portion of the program, the applicant 53219
shall be permitted to take the examination. 53220

Sec. 4765.30. (A)(1) The state board of emergency medical, 53221
fire, and transportation services shall issue a certificate to 53222
practice as a first responder to an applicant who meets all of the 53223
following conditions: 53224

(a) Except as provided in division (A)(2) of this section, is 53225
a volunteer for a nonprofit emergency medical service organization 53226
or a nonprofit fire department; 53227

(b) Holds the appropriate certificate of completion issued in 53228
accordance with section 4765.24 of the Revised Code; 53229

(c) Passes the appropriate examination conducted under 53230
section 4765.29 of the Revised Code; 53231

(d) Is not in violation of any provision of this chapter or 53232
the rules adopted under it; 53233

(e) Meets any other certification requirements established in 53234
rules adopted under section 4765.11 of the Revised Code. 53235

(2) The board may waive the requirement to be a volunteer for 53236
a nonprofit entity if the applicant meets other requirements 53237
established in rules adopted under division (B)(3) of section 53238
4765.11 of the Revised Code relative to a person's eligibility to 53239
practice as a first responder. 53240

(B) The state board of emergency medical, fire, and 53241
transportation services shall issue a certificate to practice as 53242
an emergency medical technician-basic to an applicant who meets 53243
all of the following conditions: 53244

(1) Holds a certificate of completion in emergency medical 53245
services training-basic issued in accordance with section 4765.24 53246

of the Revised Code; 53247

(2) Passes the examination for emergency medical 53248
technicians-basic conducted under section 4765.29 of the Revised 53249
Code; 53250

(3) Is not in violation of any provision of this chapter or 53251
the rules adopted under it; 53252

(4) Meets any other certification requirements established in 53253
rules adopted under section 4765.11 of the Revised Code. 53254

(C) The state board of emergency medical, fire, and 53255
transportation services shall issue a certificate to practice as 53256
an emergency medical technician-intermediate or emergency medical 53257
technician-paramedic to an applicant who meets all of the 53258
following conditions: 53259

(1) Holds a certificate to practice as an emergency medical 53260
technician-basic; 53261

(2) Holds the appropriate certificate of completion issued in 53262
accordance with section 4765.24 of the Revised Code; 53263

(3) Passes the appropriate examination conducted under 53264
section 4765.29 of the Revised Code; 53265

(4) Is not in violation of any provision of this chapter or 53266
the rules adopted under it; 53267

(5) Meets any other certification requirements established in 53268
rules adopted under section 4765.11 of the Revised Code. 53269

(D) A certificate to practice shall have a certification 53270
cycle established by the board and may be renewed by the board 53271
pursuant to rules adopted under section 4765.11 of the Revised 53272
Code. Not later than sixty days prior to the expiration date of an 53273
individual's certificate to practice, the board shall notify the 53274
individual of the scheduled expiration. 53275

An application for renewal shall be accompanied by the 53276

appropriate renewal fee established in rules adopted under section 53277
4765.11 of the Revised Code, unless the board waives the fee on 53278
determining pursuant to those rules that the applicant cannot 53279
afford to pay the fee. Except as provided in division (B) of 53280
section 4765.31 of the Revised Code, the application shall include 53281
evidence of either of the following: 53282

(1) That the applicant received a certificate of completion 53283
from the appropriate emergency medical services continuing 53284
education program pursuant to section 4765.24 of the Revised Code; 53285

(2) That the applicant has successfully passed an examination 53286
that demonstrates the competence to have a certificate renewed 53287
without completing an emergency medical services continuing 53288
education program. The board shall approve such examinations in 53289
accordance with rules adopted under section 4765.11 of the Revised 53290
Code. 53291

(E) The board shall not require an applicant for renewal of a 53292
certificate to practice to take an examination as a condition of 53293
renewing the certificate. This division does not preclude the use 53294
of examinations by operators of approved emergency medical 53295
services continuing education programs as a condition for issuance 53296
of a certificate of completion in emergency medical services 53297
continuing education. 53298

Sec. 4765.31. (A) Except as provided in division (B) of this 53299
section, a first responder, emergency medical technician-basic, 53300
emergency medical technician-intermediate, and emergency medical 53301
technician-paramedic shall complete an emergency medical services 53302
continuing education program or pass an examination approved by 53303
the state board of emergency medical, fire, and transportation 53304
services under division (A) of section 4765.10 of the Revised Code 53305
prior to the expiration of the individual's certificate to 53306
practice. Completion of the continuing education requirements for 53307

EMTs-I or paramedics satisfies the continuing education 53308
requirements for renewing the certificate to practice as an 53309
EMT-basic held by an EMT-I or paramedic. 53310

(B)(1) An applicant for renewal of a certificate to practice 53311
may apply to the board, in writing, for an extension to complete 53312
the continuing education requirements established under division 53313
(A) of this section. The board may grant such an extension and 53314
determine the length of the extension. The board may authorize the 53315
applicant to continue to practice during the extension as if the 53316
certificate to practice had not expired. 53317

(2) An applicant for renewal of a certificate to practice may 53318
apply to the board, in writing, for an exemption from the 53319
continuing education requirements established under division (A) 53320
of this section. The board may exempt an individual or a group of 53321
individuals from all or any part of the continuing education 53322
requirements due to active military service, unusual circumstance, 53323
emergency, special hardship, or any other cause considered 53324
reasonable by the board. 53325

(C) Decisions of whether to grant an extension or exemption 53326
under division (B) of this section shall be made by the board 53327
pursuant to procedures established in rules adopted under section 53328
4765.11 of the Revised Code. 53329

Sec. 4765.32. A current, valid certificate of accreditation 53330
issued under the provisions of former section 3303.11 or 3303.23 53331
of the Revised Code shall remain valid until one year after the 53332
expiration date of the certificate as determined by the provisions 53333
of those sections and shall confer the same privileges and impose 53334
the same responsibilities and requirements as a certificate of 53335
accreditation issued by the state board of emergency medical, 53336
fire, and transportation services under section 4765.17 of the 53337
Revised Code. 53338

A certificate to practice as an emergency medical technician-ambulance that is valid on November 24, 1995, shall be considered a certificate to practice as an emergency medical technician-basic. A certificate to practice as an advanced emergency medical technician-ambulance that is valid on November 24, 1995, shall be considered a certificate to practice as an emergency medical technician-intermediate.

Sec. 4765.33. The state board of emergency medical, fire, and transportation services may suspend or revoke certificates to practice issued under section 4765.30 of the Revised Code, and may take other disciplinary action against first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic pursuant to rules adopted under section 4765.11 of the Revised Code.

Sec. 4765.37. (A) An emergency medical technician-basic shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it by the state board of emergency medical, fire, and transportation services.

(B) An emergency medical technician-basic may operate, or be responsible for operation of, an ambulance and may provide emergency medical services to patients. In an emergency, an EMT-basic may determine the nature and extent of illness or injury and establish priority for required emergency medical services. An EMT-basic may render emergency medical services such as opening and maintaining an airway, giving positive pressure ventilation, cardiac resuscitation, electrical interventions with automated defibrillators to support or correct the cardiac function and other methods determined by the board, controlling of hemorrhage, treatment of shock, immobilization of fractures, bandaging,

assisting in childbirth, management of mentally disturbed 53370
patients, initial care of poison and burn patients, and 53371
determining triage of adult and pediatric trauma victims. Where 53372
patients must in an emergency be extricated from entrapment, an 53373
EMT-basic may assess the extent of injury and render all possible 53374
emergency medical services and protection to the entrapped 53375
patient; provide light rescue services if an ambulance has not 53376
been accompanied by a specialized unit; and after extrication, 53377
provide additional care in sorting of the injured in accordance 53378
with standard emergency procedures. 53379

(C) An EMT-basic may perform any other emergency medical 53380
services approved pursuant to rules adopted under section 4765.11 53381
of the Revised Code. The board shall determine whether the nature 53382
of any such service requires that an EMT-basic receive 53383
authorization prior to performing the service. 53384

(D)(1) Except as provided in division (D)(2) of this section, 53385
if the board determines under division (C) of this section that a 53386
service requires prior authorization, the service shall be 53387
performed only pursuant to the written or verbal authorization of 53388
a physician or of the cooperating physician advisory board, or 53389
pursuant to an authorization transmitted through a direct 53390
communication device by a physician or registered nurse designated 53391
by a physician. 53392

(2) If communications fail during an emergency situation or 53393
the required response time prohibits communication, an EMT-basic 53394
may perform services subject to this division, if, in the judgment 53395
of the EMT-basic, the life of the patient is in immediate danger. 53396
Services performed under these circumstances shall be performed in 53397
accordance with the protocols for triage of adult and pediatric 53398
trauma victims established in rules adopted under sections 4765.11 53399
and 4765.40 of the Revised Code and any applicable protocols 53400
adopted by the emergency medical service organization with which 53401

the EMT-basic is affiliated. 53402

Sec. 4765.38. (A) An emergency medical 53403
technician-intermediate shall perform the emergency medical 53404
services described in this section in accordance with this chapter 53405
and any rules adopted under it. 53406

(B) An EMT-I may do any of the following: 53407

(1) Establish and maintain an intravenous lifeline that has 53408
been approved by a cooperating physician or physician advisory 53409
board; 53410

(2) Perform cardiac monitoring; 53411

(3) Perform electrical interventions to support or correct 53412
the cardiac function; 53413

(4) Administer epinephrine; 53414

(5) Determine triage of adult and pediatric trauma victims; 53415

(6) Perform any other emergency medical services approved 53416
pursuant to rules adopted under section 4765.11 of the Revised 53417
Code. 53418

(C)(1) Except as provided in division (C)(2) of this section, 53419
the services described in division (B) of this section shall be 53420
performed by an EMT-I only pursuant to the written or verbal 53421
authorization of a physician or of the cooperating physician 53422
advisory board, or pursuant to an authorization transmitted 53423
through a direct communication device by a physician or registered 53424
nurse designated by a physician. 53425

(2) If communications fail during an emergency situation or 53426
the required response time prohibits communication, an EMT-I may 53427
perform any of the services described in division (B) of this 53428
section, if, in the judgment of the EMT-I, the life of the patient 53429
is in immediate danger. Services performed under these 53430

circumstances shall be performed in accordance with the protocols 53431
for triage of adult and pediatric trauma victims established in 53432
rules adopted under sections 4765.11 and 4765.40 of the Revised 53433
Code and any applicable protocols adopted by the emergency medical 53434
service organization with which the EMT-I is affiliated. 53435

(D) In addition to, and in the course of, providing emergency 53436
medical treatment, an emergency medical technician-intermediate 53437
may withdraw blood as provided under sections 1547.11, 4506.17, 53438
and 4511.19 of the Revised Code. An emergency medical 53439
technician-intermediate shall withdraw blood in accordance with 53440
this chapter and any rules adopted under it by the state board of 53441
emergency medical and transportation services. 53442

Sec. 4765.39. (A) An emergency medical technician-paramedic 53443
shall perform the emergency medical services described in this 53444
section in accordance with this chapter and any rules adopted 53445
under it. 53446

(B) A paramedic may do any of the following: 53447

(1) Perform cardiac monitoring; 53448

(2) Perform electrical interventions to support or correct 53449
the cardiac function; 53450

(3) Perform airway procedures; 53451

(4) Perform relief of pneumothorax; 53452

(5) Administer appropriate drugs and intravenous fluids; 53453

(6) Determine triage of adult and pediatric trauma victims; 53454

(7) Perform any other emergency medical services, including 53455
life support or intensive care techniques, approved pursuant to 53456
rules adopted under section 4765.11 of the Revised Code. 53457

(C)(1) Except as provided in division (C)(2) of this section, 53458
the services described in division (B) of this section shall be 53459

performed by a paramedic only pursuant to the written or verbal 53460
authorization of a physician or of the cooperating physician 53461
advisory board, or pursuant to an authorization transmitted 53462
through a direct communication device by a physician or registered 53463
nurse designated by a physician. 53464

(2) If communications fail during an emergency situation or 53465
the required response time prohibits communication, a paramedic 53466
may perform any of the services described in division (B) of this 53467
section, if, in the paramedic's judgment, the life of the patient 53468
is in immediate danger. Services performed under these 53469
circumstances shall be performed in accordance with the protocols 53470
for triage of adult and pediatric trauma victims established in 53471
rules adopted under sections 4765.11 and 4765.40 of the Revised 53472
Code and any applicable protocols adopted by the emergency medical 53473
service organization with which the paramedic is affiliated. 53474

(D) In addition to, and in the course of, providing emergency 53475
medical treatment, an emergency medical technician-paramedic may 53476
withdraw blood as provided under sections 1547.11, 4506.17, and 53477
4511.19 of the Revised Code. An emergency medical 53478
technician-paramedic shall withdraw blood in accordance with this 53479
chapter and any rules adopted under it by the state board of 53480
emergency medical, fire, and transportation services. 53481

Sec. 4765.40. (A)(1) Not later than two years after ~~the~~ 53482
~~effective date of this amendment~~ November 3, 2000, the state board 53483
of emergency medical, fire, and transportation services shall 53484
adopt rules under section 4765.11 of the Revised Code establishing 53485
written protocols for the triage of adult and pediatric trauma 53486
victims. The rules shall define adult and pediatric trauma in a 53487
manner that is consistent with section 4765.01 of the Revised 53488
Code, minimizes overtriage and undertriage, and emphasizes the 53489
special needs of pediatric and geriatric trauma patients. 53490

(2) The state triage protocols adopted under division (A) of 53491
this section shall require a trauma victim to be transported 53492
directly to an adult or pediatric trauma center that is qualified 53493
to provide appropriate adult or pediatric trauma care, unless one 53494
or more of the following exceptions applies: 53495

(a) It is medically necessary to transport the victim to 53496
another hospital for initial assessment and stabilization before 53497
transfer to an adult or pediatric trauma center; 53498

(b) It is unsafe or medically inappropriate to transport the 53499
victim directly to an adult or pediatric trauma center due to 53500
adverse weather or ground conditions or excessive transport time; 53501

(c) Transporting the victim to an adult or pediatric trauma 53502
center would cause a shortage of local emergency medical service 53503
resources; 53504

(d) No appropriate adult or pediatric trauma center is able 53505
to receive and provide adult or pediatric trauma care to the 53506
trauma victim without undue delay; 53507

(e) Before transport of a patient begins, the patient 53508
requests to be taken to a particular hospital that is not a trauma 53509
center or, if the patient is less than eighteen years of age or is 53510
not able to communicate, such a request is made by an adult member 53511
of the patient's family or a legal representative of the patient. 53512

(3)(a) The state triage protocols adopted under division (A) 53513
of this section shall require trauma patients to be transported to 53514
an adult or pediatric trauma center that is able to provide 53515
appropriate adult or pediatric trauma care, but shall not require 53516
a trauma patient to be transported to a particular trauma center. 53517
The state triage protocols shall establish one or more procedures 53518
for evaluating whether an injury victim requires or would benefit 53519
from adult or pediatric trauma care, which procedures shall be 53520
applied by emergency medical service personnel based on the 53521

patient's medical needs. In developing state trauma triage 53522
protocols, the board shall consider relevant model triage rules 53523
and shall consult with the commission on minority health, regional 53524
directors, regional physician advisory boards, and appropriate 53525
medical, hospital, and emergency medical service organizations. 53526

(b) Before the joint committee on agency rule review 53527
considers state triage protocols for trauma victims proposed by 53528
the state board of emergency medical, fire, and transportation 53529
services, or amendments thereto, the board shall send a copy of 53530
the proposal to the Ohio chapter of the American college of 53531
emergency physicians, the Ohio chapter of the American college of 53532
surgeons, the Ohio chapter of the American academy of pediatrics, 53533
OHA: the association for hospitals and health systems, the Ohio 53534
osteopathic association, and the association of Ohio children's 53535
hospitals and shall hold a public hearing at which it must 53536
consider the appropriateness of the protocols to minimize 53537
overtriage and undertriage of trauma victims. 53538

(c) The board shall provide copies of the state triage 53539
protocols, and amendments to the protocols, to each emergency 53540
medical service organization, regional director, regional 53541
physician advisory board, certified emergency medical service 53542
instructor, and person who regularly provides medical direction to 53543
emergency medical service personnel in the state; to each medical 53544
service organization in other jurisdictions that regularly provide 53545
emergency medical services in this state; and to others upon 53546
request. 53547

(B)(1) The state board of emergency medical, fire, and 53548
transportation services shall approve regional protocols for the 53549
triage of adult and pediatric trauma victims, and amendments to 53550
such protocols, that are submitted to the board as provided in 53551
division (B)(2) of this section and provide a level of adult and 53552
pediatric trauma care comparable to the state triage protocols 53553

adopted under division (A) of this section. The board shall not 53554
otherwise approve regional triage protocols for trauma victims. 53555
The board shall not approve regional triage protocols for regions 53556
that overlap and shall resolve any such disputes by apportioning 53557
the overlapping territory among appropriate regions in a manner 53558
that best serves the medical needs of the residents of that 53559
territory. The trauma committee of the board shall have reasonable 53560
opportunity to review and comment on regional triage protocols and 53561
amendments to such protocols before the board approves or 53562
disapproves them. 53563

(2) Regional protocols for the triage of adult and pediatric 53564
trauma victims, and amendments to such protocols, shall be 53565
submitted in writing to the state board of emergency medical, 53566
fire, and transportation services by the regional physician 53567
advisory board or regional director, as appropriate, that serves a 53568
majority of the population in the region in which the protocols 53569
apply. Prior to submitting regional triage protocols, or an 53570
amendment to such protocols, to the state board of emergency 53571
medical, fire, and transportation services, a regional physician 53572
advisory board or regional director shall consult with each of the 53573
following that regularly serves the region in which the protocols 53574
apply: 53575

(a) Other regional physician advisory boards and regional 53576
directors; 53577

(b) Hospitals that operate an emergency facility; 53578

(c) Adult and pediatric trauma centers; 53579

(d) Professional societies of physicians who specialize in 53580
adult or pediatric emergency medicine or adult or pediatric trauma 53581
surgery; 53582

(e) Professional societies of nurses who specialize in adult 53583
or pediatric emergency nursing or adult or pediatric trauma 53584

surgery; 53585

(f) Professional associations or labor organizations of 53586
emergency medical service personnel; 53587

(g) Emergency medical service organizations and medical 53588
directors of such organizations; 53589

(h) Certified emergency medical service instructors. 53590

(3) Regional protocols for the triage of adult and pediatric 53591
trauma victims approved under division (B)(2) of this section 53592
shall require patients to be transported to a trauma center that 53593
is able to provide an appropriate level of adult or pediatric 53594
trauma care; shall not discriminate among trauma centers for 53595
reasons not related to a patient's medical needs; shall seek to 53596
minimize undertriage and overtriage; may include any of the 53597
exceptions in division (A)(2) of this section; and supersede the 53598
state triage protocols adopted under division (A) of this section 53599
in the region in which the regional protocols apply. 53600

(4) Upon approval of regional protocols for the triage of 53601
adult and pediatric trauma victims under division (B)(2) of this 53602
section, or an amendment to such protocols, the state board of 53603
emergency medical, fire, and transportation services shall provide 53604
written notice of the approval and a copy of the protocols or 53605
amendment to each entity in the region in which the protocols 53606
apply to which the board is required to send a copy of the state 53607
triage protocols adopted under division (A) of this section. 53608

(C)(1) The state board of emergency medical, fire, and 53609
transportation services shall review the state triage protocols 53610
adopted under division (A) of this section at least every three 53611
years to determine if they are causing overtriage or undertriage 53612
of trauma patients, and shall modify them as necessary to minimize 53613
overtriage and undertriage. 53614

(2) Each regional physician advisory board or regional 53615

director that has had regional triage protocols approved under 53616
division (B)(2) of this section shall review the protocols at 53617
least every three years to determine if they are causing 53618
overtriage or undertriage of trauma patients and shall submit an 53619
appropriate amendment to the state board, as provided in division 53620
(B) of this section, as necessary to minimize overtriage and 53621
undertriage. The state board shall approve the amendment if it 53622
will reduce overtriage or undertriage while complying with 53623
division (B) of this section, and shall not otherwise approve the 53624
amendment. 53625

(D) No provider of emergency medical services or person who 53626
provides medical direction to emergency medical service personnel 53627
in this state shall fail to comply with the state triage protocols 53628
adopted under division (A) of this section or applicable regional 53629
triage protocols approved under division (B)(2) of this section. 53630

(E) The state board of emergency medical, fire, and 53631
transportation services shall adopt rules under section 4765.11 of 53632
the Revised Code that provide for enforcement of the state triage 53633
protocols adopted under division (A) of this section and regional 53634
triage protocols approved under division (B)(2) of this section, 53635
and for education regarding those protocols for emergency medical 53636
service organizations and personnel, regional directors and 53637
regional physician advisory boards, emergency medical service 53638
instructors, and persons who regularly provide medical direction 53639
to emergency medical service personnel in this state. 53640

Sec. 4765.42. Each emergency medical service organization 53641
shall give notice of the name of its medical director or the names 53642
of the members of its cooperating physician advisory board to the 53643
state board of emergency medical, fire, and transportation 53644
services. The notice shall be made in writing. 53645

Sec. 4765.48. The attorney general, the prosecuting attorney 53646
of the county, or the city director of law shall, upon complaint 53647
of the state board of emergency medical, fire, and transportation 53648
services, prosecute to termination or bring an action for 53649
injunction against any person violating this chapter or the rules 53650
adopted under it. The common pleas court in which an action for 53651
injunction is filed has the jurisdiction to grant injunctive 53652
relief upon a showing that the respondent named in the complaint 53653
is in violation of this chapter or the rules adopted under it. 53654

Sec. 4765.49. (A) A first responder, emergency medical 53655
technician-basic, emergency medical technician-intermediate, or 53656
emergency medical technician-paramedic is not liable in damages in 53657
a civil action for injury, death, or loss to person or property 53658
resulting from the individual's administration of emergency 53659
medical services, unless the services are administered in a manner 53660
that constitutes willful or wanton misconduct. A physician or 53661
registered nurse designated by a physician, who is advising or 53662
assisting in the emergency medical services by means of any 53663
communication device or telemetering system, is not liable in 53664
damages in a civil action for injury, death, or loss to person or 53665
property resulting from the individual's advisory communication or 53666
assistance, unless the advisory communication or assistance is 53667
provided in a manner that constitutes willful or wanton 53668
misconduct. Medical directors and members of cooperating physician 53669
advisory boards of emergency medical service organizations are not 53670
liable in damages in a civil action for injury, death, or loss to 53671
person or property resulting from their acts or omissions in the 53672
performance of their duties, unless the act or omission 53673
constitutes willful or wanton misconduct. 53674

(B) A political subdivision, joint ambulance district, joint 53675
emergency medical services district, or other public agency, and 53676

any officer or employee of a public agency or of a private 53677
organization operating under contract or in joint agreement with 53678
one or more political subdivisions, that provides emergency 53679
medical services, or that enters into a joint agreement or a 53680
contract with the state, any political subdivision, joint 53681
ambulance district, or joint emergency medical services district 53682
for the provision of emergency medical services, is not liable in 53683
damages in a civil action for injury, death, or loss to person or 53684
property arising out of any actions taken by a first responder, 53685
EMT-basic, EMT-I, or paramedic working under the officer's or 53686
employee's jurisdiction, or for injury, death, or loss to person 53687
or property arising out of any actions of licensed medical 53688
personnel advising or assisting the first responder, EMT-basic, 53689
EMT-I, or paramedic, unless the services are provided in a manner 53690
that constitutes willful or wanton misconduct. 53691

(C) A student who is enrolled in an emergency medical 53692
services training program accredited under section 4765.17 of the 53693
Revised Code or an emergency medical services continuing education 53694
program approved under that section is not liable in damages in a 53695
civil action for injury, death, or loss to person or property 53696
resulting from either of the following: 53697

(1) The student's administration of emergency medical 53698
services or patient care or treatment, if the services, care, or 53699
treatment is administered while the student is under the direct 53700
supervision and in the immediate presence of an EMT-basic, EMT-I, 53701
paramedic, registered nurse, or physician and while the student is 53702
receiving clinical training that is required by the program, 53703
unless the services, care, or treatment is provided in a manner 53704
that constitutes willful or wanton misconduct; 53705

(2) The student's training as an ambulance driver, unless the 53706
driving is done in a manner that constitutes willful or wanton 53707
misconduct. 53708

(D) An EMT-basic, EMT-I, paramedic, or other operator, who 53709
holds a valid commercial driver's license issued pursuant to 53710
Chapter 4506. of the Revised Code or driver's license issued 53711
pursuant to Chapter 4507. of the Revised Code and who is employed 53712
by an emergency medical service organization that is not owned or 53713
operated by a political subdivision as defined in section 2744.01 53714
of the Revised Code, is not liable in damages in a civil action 53715
for injury, death, or loss to person or property that is caused by 53716
the operation of an ambulance by the EMT-basic, EMT-I, paramedic, 53717
or other operator while responding to or completing a call for 53718
emergency medical services, unless the operation constitutes 53719
willful or wanton misconduct or does not comply with the 53720
precautions of section 4511.03 of the Revised Code. An emergency 53721
medical service organization is not liable in damages in a civil 53722
action for any injury, death, or loss to person or property that 53723
is caused by the operation of an ambulance by its employee or 53724
agent, if this division grants the employee or agent immunity from 53725
civil liability for the injury, death, or loss. 53726

(E) An employee or agent of an emergency medical service 53727
organization who receives requests for emergency medical services 53728
that are directed to the organization, dispatches first 53729
responders, EMTs-basic, EMTs-I, or paramedics in response to those 53730
requests, communicates those requests to those employees or agents 53731
of the organization who are authorized to dispatch first 53732
responders, EMTs-basic, EMTs-I, or paramedics, or performs any 53733
combination of these functions for the organization, is not liable 53734
in damages in a civil action for injury, death, or loss to person 53735
or property resulting from the individual's acts or omissions in 53736
the performance of those duties for the organization, unless an 53737
act or omission constitutes willful or wanton misconduct. 53738

(F) A person who is performing the functions of a first 53739
responder, EMT-basic, EMT-I, or paramedic under the authority of 53740

the laws of a state that borders this state and who provides 53741
emergency medical services to or transportation of a patient in 53742
this state is not liable in damages in a civil action for injury, 53743
death, or loss to person or property resulting from the person's 53744
administration of emergency medical services, unless the services 53745
are administered in a manner that constitutes willful or wanton 53746
misconduct. A physician or registered nurse designated by a 53747
physician, who is licensed to practice in the adjoining state and 53748
who is advising or assisting in the emergency medical services by 53749
means of any communication device or telemetering system is not 53750
liable in damages in a civil action for injury, death, or loss to 53751
person or property resulting from the person's advisory 53752
communication or assistance, unless the advisory communication or 53753
assistance is provided in a manner that constitutes willful or 53754
wanton misconduct. 53755

(G) A person certified under section 4765.23 of the Revised 53756
Code to teach in an emergency medical services training program or 53757
emergency medical services continuing education program, and a 53758
person who teaches at the Ohio fire academy established under 53759
section 3737.33 of the Revised Code or in a fire service training 53760
program described in division (A) of section 4765.55 of the 53761
Revised Code, is not liable in damages in a civil action for 53762
injury, death, or loss to person or property resulting from the 53763
person's acts or omissions in the performance of the person's 53764
duties, unless an act or omission constitutes willful or wanton 53765
misconduct. 53766

(H) In the accreditation of emergency medical services 53767
training programs or approval of emergency medical services 53768
continuing education programs, the state board of emergency 53769
medical, fire, and transportation services and any person or 53770
entity authorized by the board to evaluate applications for 53771
accreditation or approval are not liable in damages in a civil 53772

action for injury, death, or loss to person or property resulting 53773
from their acts or omissions in the performance of their duties, 53774
unless an act or omission constitutes willful or wanton 53775
misconduct. 53776

(I) A person authorized by an emergency medical service 53777
organization to review the performance of first responders, 53778
EMTs-basic, EMTs-I, and paramedics or to administer quality 53779
assurance programs is not liable in damages in a civil action for 53780
injury, death, or loss to person or property resulting from the 53781
person's acts or omissions in the performance of the person's 53782
duties, unless an act or omission constitutes willful or wanton 53783
misconduct. 53784

Sec. 4765.55. (A) The executive director of the state board 53785
of emergency medical, fire, and transportation services, with the 53786
advice and counsel of the firefighter and fire safety inspector 53787
training committee of the state board of emergency medical, fire, 53788
and transportation services, shall assist in the establishment and 53789
maintenance by any state agency, or any county, township, city, 53790
village, school district, or educational service center of a fire 53791
service training program for the training of all persons in 53792
positions of any fire training certification level approved by the 53793
executive director, including full-time paid firefighters, 53794
part-time paid firefighters, volunteer firefighters, and fire 53795
safety inspectors in this state. The executive director, with the 53796
advice and counsel of the committee, shall adopt rules to regulate 53797
those firefighter and fire safety inspector training programs, and 53798
other training programs approved by the executive director. The 53799
rules may include, but need not be limited to, training 53800
curriculum, certification examinations, training schedules, 53801
minimum hours of instruction, attendance requirements, required 53802
equipment and facilities, basic physical requirements, and methods 53803
of training for all persons in positions of any fire training 53804

certification level approved by the executive director, including 53805
full-time paid firefighters, part-time paid firefighters, 53806
volunteer firefighters, and fire safety inspectors. The rules 53807
adopted to regulate training programs for volunteer firefighters 53808
shall not require more than thirty-six hours of training. 53809

The executive director, with the advice and counsel of the 53810
committee, shall provide for the classification and chartering of 53811
fire service training programs in accordance with rules adopted 53812
under division (B) of this section, and may take action against 53813
any chartered training program or applicant, in accordance with 53814
rules adopted under divisions (B)(4) and (5) of this section, for 53815
failure to meet standards set by the adopted rules. 53816

(B) The executive director, with the advice and counsel of 53817
the firefighter and fire safety inspector training committee of 53818
the state board of emergency medical, fire, and transportation 53819
services, shall adopt, and may amend or rescind, rules under 53820
Chapter 119. of the Revised Code that establish all of the 53821
following: 53822

(1) Requirements for, and procedures for chartering, the 53823
training programs regulated by this section; 53824

(2) Requirements for, and requirements and procedures for 53825
obtaining and renewing, an instructor certificate to teach the 53826
training programs and continuing education classes regulated by 53827
this section; 53828

(3) Requirements for, and requirements and procedures for 53829
obtaining and renewing, any of the fire training certificates 53830
regulated by this section; 53831

(4) Grounds and procedures for suspending, revoking, 53832
restricting, or refusing to issue or renew any of the certificates 53833
or charters regulated by this section, which grounds shall be 53834
limited to one of the following: 53835

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| (a) Failure to satisfy the education or training requirements of this section; | 53836 53837 |
| (b) Conviction of a felony offense; | 53838 |
| (c) Conviction of a misdemeanor involving moral turpitude; | 53839 |
| (d) Conviction of a misdemeanor committed in the course of practice; | 53840 53841 |
| (e) In the case of a chartered training program or applicant, failure to meet standards set by the rules adopted under this division. | 53842 53843 53844 |
| (5) Grounds and procedures for imposing and collecting fines, not to exceed one thousand dollars, in relation to actions taken under division (B)(4) of this section against persons holding certificates and charters regulated by this section, the fines to be deposited into the trauma and emergency medical services fund established under section 4513.263 of the Revised Code; | 53845 53846 53847 53848 53849 53850 |
| (6) Continuing education requirements for certificate holders, including a requirement that credit shall be granted for in-service training programs conducted by local entities; | 53851 53852 53853 |
| (7) Procedures for considering the granting of an extension or exemption of fire service continuing education requirements; | 53854 53855 |
| (8) Certification cycles for which the certificates and charters regulated by this section are valid. | 53856 53857 |
| (C) The executive director, with the advice and counsel of the firefighter and fire safety inspector training committee of the state board of emergency medical, <u>fire, and transportation</u> services, shall issue or renew an instructor certificate to teach the training programs and continuing education classes regulated by this section to any applicant that the executive director determines meets the qualifications established in rules adopted under division (B) of this section, and may take disciplinary | 53858 53859 53860 53861 53862 53863 53864 53865 |

action against an instructor certificate holder or applicant in 53866
accordance with rules adopted under division (B) of this section. 53867
The executive director, with the advice and counsel of the 53868
committee, shall charter or renew the charter of any training 53869
program that the executive director determines meets the 53870
qualifications established in rules adopted under division (B) of 53871
this section, and may take disciplinary action against the holder 53872
of a charter in accordance with rules adopted under division (B) 53873
of this section. 53874

(D) The executive director shall issue or renew a fire 53875
training certificate for a firefighter, a fire safety inspector, 53876
or another position of any fire training certification level 53877
approved by the executive director, to any applicant that the 53878
executive director determines meets the qualifications established 53879
in rules adopted under division (B) of this section and may take 53880
disciplinary actions against a certificate holder or applicant in 53881
accordance with rules adopted under division (B) of this section. 53882

(E) Certificates issued under this section shall be on a form 53883
prescribed by the executive director, with the advice and counsel 53884
of the firefighter and fire safety inspector training committee of 53885
the state board of emergency medical, fire, and transportation 53886
services. 53887

(F)(1) The executive director, with the advice and counsel of 53888
the firefighter and fire safety inspector training committee of 53889
the state board of emergency medical, fire, and transportation 53890
services, shall establish criteria for evaluating the standards 53891
maintained by other states and the branches of the United States 53892
military for firefighter, fire safety inspector, and fire 53893
instructor training programs, and other training programs 53894
recognized by the executive director, to determine whether the 53895
standards are equivalent to those established under this section 53896
and shall establish requirements and procedures for issuing a 53897

certificate to each person who presents proof to the executive 53898
director of having satisfactorily completed a training program 53899
that meets those standards. 53900

(2) The executive director, with the committee's advice and 53901
counsel, shall adopt rules establishing requirements and 53902
procedures for issuing a fire training certificate in lieu of 53903
completing a chartered training program. 53904

(G) Nothing in this section invalidates any other section of 53905
the Revised Code relating to the fire training academy. Section 53906
4765.11 of the Revised Code does not affect any powers and duties 53907
granted to the executive director under this section. 53908

Sec. 4765.56. On receipt of a notice pursuant to section 53909
3123.43 of the Revised Code, the state board of emergency medical, 53910
fire, and transportation services shall comply with sections 53911
3123.41 to 3123.50 of the Revised Code and any applicable rules 53912
adopted under section 3123.63 of the Revised Code with respect to 53913
a certificate to practice issued pursuant to this chapter. 53914

Sec. 4766.01. As used in this chapter: 53915

(A) "Advanced life support" means treatment described in 53916
section 4765.39 of the Revised Code that a paramedic is certified 53917
to perform. 53918

(B) "Air medical service organization" means an organization 53919
that furnishes, conducts, maintains, advertises, promotes, or 53920
otherwise engages in providing medical services with a rotorcraft 53921
air ambulance or fixed wing air ambulance. 53922

(C) "Air medical transportation" means the transporting of a 53923
patient by rotorcraft air ambulance or fixed wing air ambulance 53924
with appropriately licensed and certified medical personnel. 53925

(D) "Ambulance" means any motor vehicle that is specifically 53926

designed, constructed, or modified and equipped and is intended to 53927
be used to provide basic life support, intermediate life support, 53928
advanced life support, or mobile intensive care unit services and 53929
transportation upon the streets or highways of this state of 53930
persons who are seriously ill, injured, wounded, or otherwise 53931
incapacitated or helpless. "Ambulance" does not include air 53932
medical transportation or a vehicle designed and used solely for 53933
the transportation of nonstretcher-bound persons, whether 53934
hospitalized or handicapped or whether ambulatory or confined to a 53935
wheelchair. 53936

(E) "Ambulette" means a motor vehicle that is specifically 53937
designed, constructed, or modified and equipped and is intended to 53938
be used for transportation upon the streets or highways of this 53939
state of persons who require use of a wheelchair. 53940

(F) "Basic life support" means treatment described in section 53941
4765.37 of the Revised Code that an ~~EMT-basic~~ EMT is certified to 53942
perform. 53943

(G) "Disaster situation" means any condition or situation 53944
described by rule of the ~~Ohio~~ state board of emergency medical, 53945
fire, and transportation board services as a mass casualty, major 53946
emergency, natural disaster, or national emergency. 53947

(H) "Emergency medical service organization" means an 53948
organization that uses ~~EMTs-basic~~ EMTs, ~~EMTs-I~~ advanced EMTs, or 53949
paramedics, or a combination of ~~EMTs-basic~~ EMTs, ~~EMTs-I~~ advanced 53950
EMTs, and paramedics, to provide medical care to victims of 53951
illness or injury. An emergency medical service organization 53952
includes, but is not limited to, a commercial ambulance service 53953
organization, a hospital, and a funeral home. 53954

(I) "~~EMT-basic~~ EMT," "~~EMT-I~~ advanced EMT," and "paramedic" 53955
have the same meanings as in section 4765.01 of the Revised Code. 53956

(J) "Fixed wing air ambulance" means a fixed wing aircraft 53957

that is specifically designed, constructed, or modified and 53958
equipped and is intended to be used as a means of air medical 53959
transportation. 53960

(K) "Intermediate life support" means treatment described in 53961
section 4765.38 of the Revised Code that an ~~EMT-I~~ advanced EMT is 53962
certified to perform. 53963

(L) "Major emergency" means any emergency event that cannot 53964
be resolved through the use of locally available emergency 53965
resources. 53966

(M) "Mass casualty" means an emergency event that results in 53967
ten or more persons being injured, incapacitated, made ill, or 53968
killed. 53969

(N) "Medical emergency" means an unforeseen event affecting 53970
an individual in such a manner that a need for immediate care is 53971
created. 53972

(O) "Mobile intensive care unit" means an ambulance used only 53973
for maintaining specialized or intensive care treatment and used 53974
primarily for interhospital transports of patients whose 53975
conditions require care beyond the scope of a paramedic as 53976
provided in section 4765.39 of the Revised Code. 53977

(P)(1) "Nonemergency medical service organization" means a 53978
person that does both of the following: 53979

(a) Provides services to the public on a regular basis for 53980
the purpose of transporting individuals who require the use of a 53981
wheelchair or are confined to a wheelchair to receive health care 53982
services at health care facilities or health care practitioners' 53983
offices in nonemergency circumstances; 53984

(b) Provides the services for a fee, regardless of whether 53985
the fee is paid by the person being transported, a third party 53986
payer, as defined in section 3702.51 of the Revised Code, or any 53987

other person or government entity. 53988

(2) "Nonemergency medical service organization" does not 53989
include a health care facility, as defined in section 1751.01 of 53990
the Revised Code, that provides ambulance services only to 53991
patients of that facility. 53992

(Q) "Nontransport vehicle" means a motor vehicle operated by 53993
a licensed emergency medical service organization not as an 53994
ambulance, but as a vehicle for providing services in conjunction 53995
with the ambulances operated by the organization or other 53996
emergency medical service organizations. 53997

(R) "Patient" means any individual who as a result of illness 53998
or injury needs medical attention, whose physical or mental 53999
condition is such that there is imminent danger of loss of life or 54000
significant health impairment, who may be otherwise incapacitated 54001
or helpless as a result of a physical or mental condition, or 54002
whose physical condition requires the use of a wheelchair. 54003

(S) "Rotorcraft air ambulance" means a helicopter or other 54004
aircraft capable of vertical takeoffs, vertical landings, and 54005
hovering that is specifically designed, constructed, or modified 54006
and equipped and is intended to be used as a means of air medical 54007
transportation. 54008

Sec. 4766.03. (A) The ~~Ohio~~ state board of emergency medical, 54009
fire, and transportation board services shall adopt rules, in 54010
accordance with Chapter 119. of the Revised Code, implementing the 54011
requirements of this chapter. The rules shall include provisions 54012
relating to the following: 54013

(1) Requirements for an emergency medical service 54014
organization to receive a permit for an ambulance or nontransport 54015
vehicle; 54016

(2) Requirements for an emergency medical service 54017

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| organization to receive a license as a basic life-support, | 54018 |
| intermediate life-support, advanced life-support, or mobile | 54019 |
| intensive care unit organization; | 54020 |
| (3) Requirements for a nonemergency medical service | 54021 |
| organization to receive a permit for an ambulette vehicle; | 54022 |
| (4) Requirements for a nonemergency medical service | 54023 |
| organization to receive a license for an ambulette service; | 54024 |
| (5) Requirements for an air medical service organization to | 54025 |
| receive a permit for a rotorcraft air ambulance or fixed wing air | 54026 |
| ambulance; | 54027 |
| (6) Requirements for licensure of air medical service | 54028 |
| organizations; | 54029 |
| (7) Forms for applications and renewals of licenses and | 54030 |
| permits; | 54031 |
| (8) Requirements for record keeping of service responses made | 54032 |
| by licensed emergency medical service organizations; | 54033 |
| (9) Fee amounts for licenses and permits, and their renewals; | 54034 |
| (10) Inspection requirements for licensees' vehicles or | 54035 |
| aircraft, records, and physical facilities; | 54036 |
| (11) Fee amounts for inspections of ambulances, ambulettes, | 54037 |
| rotorcraft air ambulances, fixed wing air ambulances, and | 54038 |
| nontransport vehicles; | 54039 |
| (12) Requirements for ambulances and nontransport vehicles | 54040 |
| used by licensed emergency medical service organizations, for | 54041 |
| ambulette vehicles used by licensed nonemergency medical service | 54042 |
| organizations, and for rotorcraft air ambulances or fixed wing air | 54043 |
| ambulances used by licensed air medical service organizations that | 54044 |
| specify for each type of vehicle or aircraft the types of | 54045 |
| equipment that must be carried, the communication systems that | 54046 |
| must be maintained, and the personnel who must staff the vehicle | 54047 |

or aircraft; 54048

(13) The level of care each type of emergency medical service 54049
organization, nonemergency medical service organization, and air 54050
medical service organization is authorized to provide; 54051

(14) Eligibility requirements for employment as an ambulance 54052
driver, including grounds for disqualification due to the results 54053
of a motor vehicle law violation check, chemical test, or criminal 54054
records check. The rule may require that an applicant for 54055
employment as an ambulance driver provide a set of fingerprints to 54056
law enforcement authorities if the applicant comes under final 54057
consideration for employment. 54058

(15) Any other rules that the board determines necessary for 54059
the implementation and enforcement of this chapter. 54060

(B) In the rules for ambulances and nontransport vehicles 54061
adopted under division (A)(12) of this section, the board may 54062
establish requirements that vary according to whether the 54063
emergency medical service organization using the vehicles is 54064
licensed as a basic life-support, intermediate life-support, 54065
advanced life-support, or mobile intensive care unit organization. 54066

(C) A mobile intensive care unit that is not dually certified 54067
to provide advanced life-support and meets the requirements of the 54068
rules adopted under this section is not required to carry 54069
immobilization equipment, including board splint kits, traction 54070
splints, backboards, backboard straps, cervical immobilization 54071
devices, cervical collars, stair chairs, folding cots, or other 54072
types of immobilization equipment determined by the board to be 54073
unnecessary for mobile intensive care units. 54074

A mobile intensive care unit is exempt from the emergency 54075
medical technician staffing requirements of section 4765.43 of the 54076
Revised Code when it is staffed by at least one physician or 54077
registered nurse and another person, designated by a physician, 54078

who holds a valid license or certificate to practice in a health 54079
care profession, and when at least one of the persons staffing the 54080
mobile intensive care unit is a registered nurse whose training 54081
meets or exceeds the training required for a paramedic. 54082

Sec. 4766.04. (A) Except as otherwise provided in this 54083
chapter, no person shall furnish, operate, conduct, maintain, 54084
advertise, engage in, or propose or profess to engage in the 54085
business or service in this state of transporting persons who are 54086
seriously ill, injured, or otherwise incapacitated or who require 54087
the use of a wheelchair or are confined to a wheelchair unless the 54088
person is licensed pursuant to this section. 54089

(B) To qualify for a license as a basic life-support, 54090
intermediate life-support, advanced life-support, or mobile 54091
intensive care unit organization, an emergency medical service 54092
organization shall do all of the following: 54093

(1) Apply for a permit for each ambulance and nontransport 54094
vehicle owned or leased as provided in section 4766.07 of the 54095
Revised Code; 54096

(2) Meet all requirements established in rules adopted by the 54097
~~Ohio~~ state board of emergency medical, fire, and transportation 54098
~~board~~ services regarding ambulances and nontransport vehicles, 54099
including requirements pertaining to equipment, communications 54100
systems, staffing, and level of care the particular organization 54101
is permitted to render; 54102

(3) Maintain the appropriate type and amount of insurance as 54103
specified in section 4766.06 of the Revised Code; 54104

(4) Meet all other requirements established under rules 54105
adopted by the board for the particular license. 54106

(C) To qualify for a license to provide ambulette service, a 54107
nonemergency medical service organization shall do all of the 54108

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| following: | 54109 |
| (1) Apply for a permit for each ambulette owned or leased as provided in section 4766.07 of the Revised Code; | 54110 54111 |
| (2) Meet all requirements established in rules adopted by the Ohio <u>state board of emergency medical, fire, and transportation board services</u> regarding ambulances, including requirements pertaining to equipment, communication systems, staffing, and level of care the organization is permitted to render; | 54112 54113 54114 54115 54116 |
| (3) Maintain the appropriate type and amount of insurance as specified in section 4766.06 of the Revised Code; | 54117 54118 |
| (4) Meet all other requirements established under rules adopted by the board for the license. | 54119 54120 |
| (D) To qualify for a license to provide air medical transportation, an air medical service organization shall do all of the following: | 54121 54122 54123 |
| (1) Apply for a permit for each rotorcraft air ambulance and fixed wing air ambulance owned or leased as provided in section 4766.07 of the Revised Code; | 54124 54125 54126 |
| (2) Meet all requirements established in rules adopted by the Ohio <u>state board of emergency medical, fire, and transportation board services</u> regarding rotorcraft air ambulances and fixed wing air ambulances, including requirements pertaining to equipment, communication systems, staffing, and level of care the organization is permitted to render; | 54127 54128 54129 54130 54131 54132 |
| (3) Maintain the appropriate type and amount of insurance as specified in section 4766.06 of the Revised Code; | 54133 54134 |
| (4) Meet all other requirements established under rules adopted by the board for the license. | 54135 54136 |
| (E) An emergency medical service organization that applies for a license as a basic life-support, intermediate life-support, | 54137 54138 |

advanced life-support, or mobile intensive care unit organization; 54139
a nonemergency medical service organization that applies for a 54140
license to provide ambulette service; or an air medical service 54141
organization that applies for a license to provide air medical 54142
transportation shall submit a completed application to the board, 54143
on a form provided by the board for each particular license, 54144
together with the appropriate fees established under section 54145
4766.05 of the Revised Code. The application form shall include 54146
all of the following: 54147

(1) The name and business address of the operator of the 54148
organization for which licensure is sought; 54149

(2) The name under which the applicant will operate the 54150
organization; 54151

(3) A list of the names and addresses of all officers and 54152
directors of the organization; 54153

(4) For emergency medical service organizations and 54154
nonemergency medical service organizations, a description of each 54155
vehicle to be used, including the make, model, year of 54156
manufacture, mileage, vehicle identification number, and the color 54157
scheme, insignia, name, monogram, or other distinguishing 54158
characteristics to be used to designate the applicant's vehicle; 54159

(5) For air medical service organizations using fixed wing 54160
air ambulances, a description of each aircraft to be used, 54161
including the make, model, year of manufacture, and aircraft hours 54162
on airframe; 54163

(6) For air medical service organizations using rotorcraft 54164
air ambulances, a description of each aircraft to be used, 54165
including the make, model, year of manufacture, aircraft hours on 54166
airframe, aircraft identification number, and the color scheme, 54167
insignia, name, monogram, or other distinguishing characteristics 54168
to be used to designate the applicant's rotorcraft air ambulance; 54169

(7) The location and description of each place from which the organization will operate; 54170
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(8) A description of the geographic area to be served by the applicant; 54172
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(9) Any other information the board, by rule, determines necessary. 54174
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(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. The board shall send notice of the denial of an application by certified mail to the applicant. The applicant may request a hearing within ten days after receipt of the notice. If the board receives a timely request, it shall hold a hearing in accordance with Chapter 119. of the Revised Code. 54176
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(G) If an applicant or licensee operates or plans to operate an organization in more than one location under the same or different identities, the applicant or licensee shall apply for and meet all requirements for licensure or renewal of a license, other than payment of a license fee or renewal fee, for operating the organization at each separate location. An applicant or licensee that operates or plans to operate under the same organization identity in separate locations shall pay only a single license fee. 54188
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(H) An emergency medical service organization that wishes to provide ambulette services to the public must apply for a separate license under division (C) of this section. 54197
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(I) Each license issued under this section and each permit 54200

issued under section 4766.07 of the Revised Code expires one year 54201
after the date of issuance and may be renewed in accordance with 54202
the standard renewal procedures of Chapter 4745. of the Revised 54203
Code. An application for renewal shall include the license or 54204
permit renewal fee established under section 4766.05 of the 54205
Revised Code. An applicant for renewal of a permit also shall 54206
submit to the board proof of an annual inspection of the vehicle 54207
or aircraft for which permit renewal is sought. The board shall 54208
renew a license if the applicant meets the requirements for 54209
licensure and shall renew a permit if the applicant and vehicle or 54210
aircraft meet the requirements to maintain a permit for that 54211
vehicle or aircraft. 54212

(J) Each licensee shall maintain accurate records of all 54213
service responses conducted. The records shall be maintained on 54214
forms prescribed by the board and shall contain information as 54215
specified by rule by the board. 54216

Sec. 4766.05. (A) The ~~Ohio~~ state board of emergency medical, 54217
fire, and transportation board services shall establish by rule a 54218
license fee, a permit fee for each ambulance, ambulette, 54219
rotorcraft air ambulance, fixed wing air ambulance, and 54220
nontransport vehicle owned or leased by the licensee that is or 54221
will be used as provided in section 4766.07 of the Revised Code, 54222
and fees for renewals of licenses and permits, taking into 54223
consideration the actual costs incurred by the board in carrying 54224
out its duties under this chapter. However, the fee for each 54225
license and each renewal of a license shall not exceed one hundred 54226
dollars, and the fee for each permit and each renewal of a permit 54227
shall not exceed one hundred dollars for each ambulance, 54228
rotorcraft air ambulance, fixed wing air ambulance, and 54229
nontransport vehicle. ~~The fee for each permit and each renewal of~~ 54230
~~a permit shall be twenty five dollars for each ambulette for one~~ 54231
~~year after March 9, 2004. Thereafter, the board shall determine by~~ 54232

rule the fee, which shall not exceed fifty dollars, for each 54233
permit and each renewal of a permit for each ambulette. For 54234
purposes of establishing fees, "actual costs" includes the costs 54235
of salaries, expenses, inspection equipment, supervision, and 54236
program administration. 54237

(B) The board shall deposit all fees and other moneys 54238
collected pursuant to sections 4766.04, 4766.07, and 4766.08 of 54239
the Revised Code in the state treasury to the credit of the 54240
occupational licensing and regulatory fund, which is created by 54241
section 4743.05 of the Revised Code. All moneys from the fund 54242
shall be used solely for the salaries and expenses of the board 54243
incurred in implementing and enforcing this chapter. 54244

(C) The board, subject to the approval of the controlling 54245
board, may establish fees in excess of the maximum amounts allowed 54246
under division (A) of this section, but such fees shall not exceed 54247
those maximum amounts by more than fifty per cent. 54248

Sec. 4766.07. (A) Except as otherwise provided by rule of the 54249
~~Ohio state board of emergency medical, fire, and transportation~~ 54250
~~board services~~, each emergency medical service organization, 54251
nonemergency medical service organization, and air medical service 54252
organization subject to licensure under this chapter shall possess 54253
a valid permit for each ambulance, ambulette, rotorcraft air 54254
ambulance, fixed wing air ambulance, and nontransport vehicle it 54255
owns or leases that is or will be used by the licensee to perform 54256
the services permitted by the license. Each licensee and license 54257
applicant shall submit the appropriate fee and an application for 54258
a permit for each ambulance, ambulette, rotorcraft air ambulance, 54259
fixed wing air ambulance, and nontransport vehicle to the ~~Ohio~~ 54260
state board of emergency medical, fire, and transportation board 54261
services on forms provided by the board. The application shall 54262
include documentation that the vehicle or aircraft meets the 54263

appropriate standards set by the board, that the vehicle or 54264
aircraft has been inspected pursuant to division (C) of this 54265
section, that the permit applicant maintains insurance as provided 54266
in section 4766.06 of the Revised Code, and that the vehicle or 54267
aircraft and permit applicant meet any other requirements 54268
established under rules adopted by the board. 54269

The ~~Ohio~~ state board of emergency medical, fire, and 54270
transportation ~~board~~ services may adopt rules in accordance with 54271
Chapter 119. of the Revised Code to authorize the temporary use of 54272
a vehicle or aircraft for which a permit is not possessed under 54273
this section in back-up or disaster situations. 54274

(B)(1) Within sixty days after receiving a completed 54275
application for a permit, the board shall issue or deny the 54276
permit. The board shall deny an application if it determines that 54277
the permit applicant, vehicle, or aircraft does not meet the 54278
requirements of this chapter and the rules adopted under it that 54279
apply to permits for ambulances, ambulettes, rotorcraft air 54280
ambulances, fixed wing air ambulances, and nontransport vehicles. 54281
The board shall send notice of the denial of an application by 54282
certified mail to the permit applicant. The permit applicant may 54283
request a hearing within ten days after receipt of the notice. If 54284
the board receives a timely request, it shall hold a hearing in 54285
accordance with Chapter 119. of the Revised Code. 54286

(2) If the board issues the vehicle permit for an ambulance, 54287
ambulette, or nontransport vehicle, it also shall issue a decal, 54288
in a form prescribed by rule, to be displayed on the rear window 54289
of the vehicle. The board shall not issue a decal until all of the 54290
requirements for licensure and permit issuance have been met. 54291

(3) If the board issues the aircraft permit for a rotorcraft 54292
air ambulance or fixed wing air ambulance, it also shall issue a 54293
decal, in a form prescribed by rule, to be displayed on the left 54294

fuselage aircraft window in a manner that complies with all 54295
applicable federal aviation regulations. The board shall not issue 54296
a decal until all of the requirements for licensure and permit 54297
issuance have been met. 54298

(C) In addition to any other requirements that the board 54299
establishes by rule, a licensee or license applicant applying for 54300
an initial vehicle or aircraft permit under division (A) of this 54301
section shall submit to the board the vehicle or aircraft for 54302
which the permit is sought. Thereafter, a licensee shall annually 54303
submit to the board each vehicle or aircraft for which a permit 54304
has been issued. 54305

(1) The board shall conduct a physical inspection of an 54306
ambulance, ambulette, or nontransport vehicle to determine its 54307
roadworthiness and compliance with standard motor vehicle 54308
requirements. 54309

(2) The board shall conduct a physical inspection of the 54310
medical equipment, communication system, and interior of an 54311
ambulance to determine the operational condition and safety of the 54312
equipment and the ambulance's interior and to determine whether 54313
the ambulance is in compliance with the federal requirements for 54314
ambulance construction that were in effect at the time the 54315
ambulance was manufactured, as specified by the general services 54316
administration in the various versions of its publication titled 54317
"federal specification for the star-of-life ambulance, 54318
KKK-A-1822." 54319

(3) The board shall conduct a physical inspection of the 54320
equipment, communication system, and interior of an ambulette to 54321
determine the operational condition and safety of the equipment 54322
and the ambulette's interior and to determine whether the 54323
ambulette is in compliance with state requirements for ambulette 54324
construction. The board shall determine by rule requirements for 54325
the equipment, communication system, interior, and construction of 54326

an ambulette. 54327

(4) The board shall conduct a physical inspection of the 54328
medical equipment, communication system, and interior of a 54329
rotorcraft air ambulance or fixed wing air ambulance to determine 54330
the operational condition and safety of the equipment and the 54331
aircraft's interior. 54332

(5) The board shall issue a certificate to the applicant for 54333
each vehicle or aircraft that passes the inspection and may assess 54334
a fee for each inspection, as established by the board. 54335

(6) The board shall adopt rules regarding the implementation 54336
and coordination of inspections. The rules may permit the board to 54337
contract with a third party to conduct the inspections required of 54338
the board under this section. 54339

Sec. 4766.08. (A) The ~~Ohio~~ state board of emergency medical, 54340
fire, and transportation board ~~may~~ services, pursuant to an 54341
adjudication conducted in accordance with Chapter 119. of the 54342
Revised Code, may suspend or revoke any license or permit or 54343
renewal thereof issued under this chapter for any one or 54344
combination of the following causes: 54345

(1) Violation of this chapter or any rule adopted thereunder; 54346

(2) Refusal to permit the board to inspect a vehicle or 54347
aircraft used under the terms of a permit or to inspect the 54348
records or physical facilities of a licensee; 54349

(3) Failure to meet the ambulance, ambulette, rotorcraft air 54350
ambulance, fixed wing air ambulance, and nontransport vehicle 54351
requirements specified in this chapter or the rules adopted 54352
thereunder; 54353

(4) Violation of an order issued by the board; 54354

(5) Failure to comply with any of the terms of an agreement 54355
entered into with the board regarding the suspension or revocation 54356

of a license or permit or the imposition of a penalty under this 54357
section. 54358

(B) If the board determines that the records, record-keeping 54359
procedures, or physical facilities of a licensee, or an ambulance, 54360
ambulette, rotorcraft air ambulance, fixed wing air ambulance, or 54361
nontransport vehicle for which a valid permit has been issued, do 54362
not meet the standards specified in this chapter and the rules 54363
adopted thereunder, the board shall notify the licensee of any 54364
deficiencies within thirty days of finding the deficiencies. If 54365
the board determines that the deficiencies exist and they remain 54366
uncorrected after thirty days, the board may suspend the license, 54367
vehicle permit, or aircraft permit. The licensee, notwithstanding 54368
the suspension under this division, may operate until all appeals 54369
have been exhausted. 54370

(C) At the discretion of the board, a licensee whose license 54371
has been suspended or revoked under this section may be ineligible 54372
to be licensed under this chapter for a period of not more than 54373
three years from the date of the violation, provided that the 54374
board shall make no determination on a period of ineligibility 54375
until all the licensee's appeals relating to the suspension or 54376
revocation have been exhausted. 54377

(D) The board may, in addition to any other action taken 54378
under this section and after a hearing conducted pursuant to 54379
Chapter 119. of the Revised Code, impose a penalty of not more 54380
than fifteen hundred dollars for any violation specified in this 54381
section. The attorney general shall institute a civil action for 54382
the collection of any such penalty imposed. 54383

Sec. 4766.09. This chapter does not apply to any of the 54384
following: 54385

(A) A person rendering services with an ambulance in the 54386
event of a disaster situation when licensees' vehicles based in 54387

the locality of the disaster situation are incapacitated or 54388
insufficient in number to render the services needed; 54389

(B) Any person operating an ambulance, ambulette, rotorcraft 54390
air ambulance, or fixed wing air ambulance outside this state 54391
unless receiving a person within this state for transport to a 54392
location within this state; 54393

(C) A publicly owned or operated emergency medical service 54394
organization and the vehicles it owns or leases and operates, 54395
except as provided in section 307.051, division (G) of section 54396
307.055, division (F) of section 505.37, division (B) of section 54397
505.375, and division (B)(3) of section 505.72 of the Revised 54398
Code; 54399

(D) An ambulance, ambulette, rotorcraft air ambulance, fixed 54400
wing air ambulance, or nontransport vehicle owned or leased and 54401
operated by the federal government; 54402

(E) A publicly owned and operated fire department vehicle; 54403

(F) Emergency vehicles owned by a corporation and operating 54404
only on the corporation's premises, for the sole use by that 54405
corporation; 54406

(G) An ambulance, nontransport vehicle, or other emergency 54407
medical service organization vehicle owned and operated by a 54408
municipal corporation; 54409

(H) A motor vehicle titled in the name of a volunteer rescue 54410
service organization, as defined in section 4503.172 of the 54411
Revised Code; 54412

(I) A public emergency medical service organization; 54413

(J) A fire department, rescue squad, or life squad comprised 54414
of volunteers who provide services without expectation of 54415
remuneration and do not receive payment for services other than 54416
reimbursement for expenses; 54417

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| (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; | 54418 54419 54420 |
| (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; | 54421 54422 54423 |
| (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: | 54424 54425 54426 54427 |
| (1) A public nonemergency medical service organization; | 54428 |
| (2) An urban or rural public transit system; | 54429 |
| (3) A private nonprofit organization that receives grants under section 5501.07 of the Revised Code. | 54430 54431 |
| (N)(1) An entity, to the extent it provides ambulette services, if the entity meets all of the following conditions: | 54432 54433 |
| (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. | 54434 54435 54436 54437 54438 |
| (b) The entity meets the requirements of section 4766.14 of the Revised Code. | 54439 54440 |
| (c) The entity does not provide ambulette services that are reimbursed under the state medicaid plan. | 54441 54442 |
| (2) A vehicle, to the extent it is used to provide ambulette services, if the vehicle meets both of the following conditions: | 54443 54444 |
| (a) The vehicle is owned by an entity that meets the conditions specified in division (N)(1) of this section. | 54445 54446 |

(b) The vehicle does not provide ambulance services that are 54447
reimbursed under the state medicaid plan. 54448

(0) A vehicle that meets both of the following criteria, 54449
unless the vehicle provides services that are reimbursed under the 54450
state medicaid plan: 54451

(1) The vehicle was purchased with funds from a grant made by 54452
the United States secretary of transportation under 49 U.S.C. 54453
5310; 54454

(2) The department of transportation holds a lien on the 54455
vehicle. 54456

Sec. 4766.10. This chapter does not invalidate any ordinance 54457
or resolution adopted by a municipal corporation that establishes 54458
standards for the licensure of emergency medical service 54459
organizations as basic life-support, intermediate life-support, or 54460
advanced life-support service organizations that have their 54461
principal places of business located within the limits of the 54462
municipal corporation, as long as the licensure standards meet or 54463
exceed the standards established in this chapter and the rules 54464
adopted thereunder. 54465

Emergency medical service organizations licensed by a 54466
municipal corporation are subject to the jurisdiction of the ~~Ohio~~ 54467
state board of emergency medical, fire, and transportation board 54468
services, but the fees they pay to the board for licenses, 54469
permits, and renewals thereof shall not exceed fifty per cent of 54470
the fee amounts established by the board pursuant to section 54471
4766.03 of the Revised Code. The board may choose to waive the 54472
vehicle inspection requirements and inspection fees, but not the 54473
permit fees, for the vehicles of organizations licensed by a 54474
municipal corporation. 54475

Sec. 4766.11. (A) The ~~Ohio~~ state board of emergency medical, 54476

fire, and transportation board services may investigate alleged 54477
violations of this chapter or the rules adopted under it and may 54478
investigate any complaints received regarding alleged violations. 54479

In addition to any other remedies available and regardless of 54480
whether an adequate remedy at law exists, the board may apply to 54481
the court of common pleas in the county where a violation of any 54482
provision of this chapter or any rule adopted pursuant thereto is 54483
occurring for a temporary or permanent injunction restraining a 54484
person from continuing to commit that violation. On a showing that 54485
a person has committed a violation, the court shall grant the 54486
injunction. 54487

In conducting an investigation under this section, the board 54488
may issue subpoenas compelling the attendance and testimony of 54489
witnesses and the production of books, records, and other 54490
documents pertaining to the investigation. If a person fails to 54491
obey a subpoena from the board, the board may apply to the court 54492
of common pleas in the county where the investigation is being 54493
conducted for an order compelling the person to comply with the 54494
subpoena. On application by the board, the court shall compel 54495
obedience by attachment proceedings for contempt, as in the case 54496
of disobedience of the requirements of a subpoena from the court 54497
or a refusal to testify therein. 54498

(B) The ~~medical-transportation~~ board may suspend a license 54499
issued under this chapter without a prior hearing if it determines 54500
that there is evidence that the license holder is subject to 54501
action under this section and that there is clear and convincing 54502
evidence that continued operation by the license holder presents a 54503
danger of immediate and serious harm to the public. The 54504
chairperson and executive director of the board shall make a 54505
preliminary determination and describe the evidence on which they 54506
made their determination to the board members. The board by 54507

resolution may designate another board member to act in place of 54508
the chairperson or another employee to act in place of the 54509
executive director in the event that the chairperson or executive 54510
director is unavailable or unable to act. Upon review of the 54511
allegations, the board, by the affirmative vote of ~~at least four a~~ 54512
majority of its members, may suspend the license without a 54513
hearing. 54514

~~Any method of communication, including a telephone conference 54515
call, may be utilized for describing the evidence to the board 54516
members, for reviewing the allegations, and for voting on the 54517
suspension. 54518~~

Immediately following the decision by the board to suspend a 54519
license under this division, the board shall issue a written order 54520
of suspension and cause it to be delivered in accordance with 54521
section 119.07 of the Revised Code. If the license holder subject 54522
to the suspension requests an adjudication hearing by the board, 54523
the date set for the adjudication shall be within fifteen days but 54524
not earlier than seven days after the request unless another date 54525
is agreed to by the license holder and the board. 54526

Any summary suspension imposed under this division remains in 54527
effect, unless reversed by the board, until a final adjudicative 54528
order issued by the board pursuant to this section and Chapter 54529
119. of the Revised Code becomes effective. The board shall issue 54530
its final adjudicative order not less than ninety days after 54531
completion of its adjudication hearing. Failure to issue the order 54532
by that day shall cause the summary suspension order to end, but 54533
such failure shall not affect the validity of any subsequent final 54534
adjudication order. 54535

Sec. 4766.12. If a county, township, joint ambulance 54536
district, or joint emergency medical services district chooses to 54537
have the ~~Ohio~~ state board of emergency medical, fire, and 54538

transportation ~~board~~ services license its emergency medical 54539
service organizations and issue permits for its vehicles pursuant 54540
to this chapter, except as may be otherwise provided, all 54541
provisions of this chapter and all rules adopted by the board 54542
thereunder are fully applicable. However, a county, township, 54543
joint ambulance district, or joint emergency medical services 54544
district is not required to obtain any type of permit from the 54545
board for any of its nontransport vehicles. 54546

Sec. 4766.13. The ~~Ohio~~ state board of emergency medical, 54547
fire, and transportation ~~board~~ services, by endorsement, may 54548
license and issue vehicle permits to an emergency medical service 54549
organization or a nonemergency medical service organization that 54550
is regulated by another state. To qualify for a license and 54551
vehicle permits by endorsement, an organization must submit 54552
evidence satisfactory to the board that it has met standards in 54553
another state that are equal to or more stringent than the 54554
standards established by this chapter and the rules adopted under 54555
it. 54556

Sec. 4766.15. (A) An applicant for employment as an ambulette 54557
driver with an organization licensed pursuant to this chapter 54558
shall submit proof to the organization of, or give consent to the 54559
employer to obtain, all of the following: 54560

(1)(a) A valid driver's license issued pursuant to Chapter 54561
4506. or 4507. of the Revised Code, or its equivalent, if the 54562
applicant is a resident of another state; 54563

(b) A recent certified abstract of the applicant's record of 54564
convictions for violations of motor vehicle laws provided by the 54565
registrar of motor vehicles pursuant to section 4509.05 of the 54566
Revised Code, or its equivalent, if the applicant is a resident of 54567
another state. 54568

(2)(a) A certificate of completion of a course in first aid techniques offered by the American red cross or an equivalent organization;

(b) A certificate of completion of a course in cardiopulmonary resuscitation, or its equivalent, offered by an organization approved by the ~~Ohio~~ state board of emergency medical, fire, and transportation board services.

(3) The result of a chemical test or tests of the applicant's blood, breath, or urine conducted at a hospital or other institution approved by the board for the purpose of determining the alcohol, drug of abuse, controlled substance, or metabolite of a controlled substance content of the applicant's whole blood, blood serum or plasma, breath, or urine;

(4) The result of a criminal records check conducted by the bureau of criminal identification and investigation.

(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.

(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.

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.

Sec. 4766.22. (A) Not later than forty-five days after the

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| end of each fiscal year, the Ohio <u>state board of emergency</u> | 54599 |
| <u>medical, fire, and transportation board services</u> shall submit a | 54600 |
| report to the governor and general assembly that provides all of | 54601 |
| the following information for that fiscal year: | 54602 |
| (1) The number of each of the following the board issued: | 54603 |
| (a) Basic life-support organization licenses; | 54604 |
| (b) Intermediate life-support organization licenses; | 54605 |
| (c) Advanced life-support organization licenses; | 54606 |
| (d) Mobile intensive care unit organization licenses; | 54607 |
| (e) Ambulette service licenses; | 54608 |
| (f) Air medical service organization licenses; | 54609 |
| (g) Ambulance permits; | 54610 |
| (h) Nontransport vehicle permits; | 54611 |
| (i) Ambulette vehicle permits; | 54612 |
| (j) Rotorcraft air ambulance permits; | 54613 |
| (k) Fixed wing air ambulance permits. | 54614 |
| (2) The amount of fees the board collected for issuing and | 54615 |
| renewing each type of license and permit specified in division | 54616 |
| (A)(1) of this section; | 54617 |
| (3) The number of inspections the board or a third party on | 54618 |
| the board's behalf conducted in connection with each type of | 54619 |
| license and permit specified in division (A)(1) of this section | 54620 |
| and the amount of fees the board collected for the inspections; | 54621 |
| (4) The number of complaints that were submitted to the | 54622 |
| board; | 54623 |
| (5) The number of investigations the board conducted under | 54624 |
| section 4766.11 of the Revised Code; | 54625 |
| (6) The number of adjudication hearings the board held and | 54626 |

the outcomes of the adjudications; 54627

(7) The amount of penalties the board imposed and collected 54628
under section 4766.08 of the Revised Code; 54629

(8) Other information the board determines reflects the 54630
board's operations. 54631

(B) The board shall post the annual report required by this 54632
section on its web site and make it available to the public on 54633
request. 54634

Sec. 4773.08. The ~~public~~ director of health council shall 54635
adopt rules to implement and administer this chapter. In adopting 54636
the rules, the ~~council~~ director shall consider any recommendations 54637
made by the radiation advisory council created under section 54638
3701.93 of the Revised Code. The rules shall be adopted in 54639
accordance with Chapter 119. of the Revised Code and shall not be 54640
less stringent than any applicable standards specified in 42 54641
C.F.R. 75. The rules shall establish all of the following: 54642

(A) Standards for licensing general x-ray machine operators, 54643
radiographers, radiation therapy technologists, and nuclear 54644
medicine technologists; 54645

(B) Application and renewal fees for licenses issued under 54646
this chapter that do not exceed the cost incurred in issuing and 54647
renewing the licenses; 54648

(C) Standards for accreditation of educational programs and 54649
approval of continuing education programs in general x-ray machine 54650
operation, radiography, radiation therapy technology, and nuclear 54651
medicine technology; 54652

(D) Fees for accrediting educational programs and approving 54653
continuing education programs in general x-ray machine operation, 54654
radiography, radiation therapy technology, and nuclear medicine 54655
technology that do not exceed the cost incurred in accrediting the 54656

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| educational programs; | 54657 |
| (E) Fees for issuing conditional licenses under section 4773.05 of the Revised Code that do not exceed the cost incurred in issuing the licenses; | 54658 54659 54660 |
| (F) Continuing education requirements that must be met to have a license renewed under section 4773.03 of the Revised Code; | 54661 54662 |
| (G) Continuing education requirements that the holder of a conditional license must meet to receive a license issued under section 4773.03 of the Revised Code; | 54663 54664 54665 |
| (H) Any other rules necessary for the implementation or administration of this chapter. | 54666 54667 |
| Sec. 4781.01. As used in this chapter: | 54668 |
| (A) "Industrialized unit" has the same meaning as in division (C)(3) of section 3781.06 of the Revised Code. | 54669 54670 |
| (B) "Installation" means any of the following: | 54671 |
| (1) The temporary or permanent construction of stabilization, support, and anchoring systems for manufactured housing; | 54672 54673 |
| (2) The placement and erection of a manufactured housing unit or components of a unit on a structural support system; | 54674 54675 |
| (3) The supporting, blocking, leveling, securing, anchoring, underpinning, or adjusting of any section or component of a manufactured housing unit; | 54676 54677 54678 |
| (4) The joining or connecting of all sections or components of a manufactured housing unit. | 54679 54680 |
| (C) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code. | 54681 54682 |
| (D) "Manufactured home park" has the same meaning as in division (A) of section 3733.01 of the Revised Code <u>means any</u> | 54683 54684 |

tract of land upon which three or more manufactured or mobile 54685
homes used for habitation are parked, either free of charge or for 54686
revenue purposes, and includes any roadway, building, structure, 54687
vehicle, or enclosure used or intended for use as a part of the 54688
facilities of the park. "Manufactured home park" does not include 54689
any of the following: 54690

(1) A tract of land used solely for the storage or display 54691
for sale of manufactured or mobile homes or solely as a temporary 54692
park-camp as defined in section 3729.01 of the Revised Code; 54693

(2) A tract of land that is subdivided and the individual 54694
lots are for sale or sold for the purpose of installation of 54695
manufactured or mobile homes used for habitation and the roadways 54696
are dedicated to the local government authority; 54697

(3) A tract of land within an area that is subject to local 54698
zoning authority and subdivision requirements and is subdivided, 54699
and the individual lots are for sale or sold for the purpose of 54700
installation of manufactured or mobile homes for habitation. 54701

(E) "Manufactured housing" means manufactured homes and 54702
mobile homes. 54703

(F) "Manufactured housing installer" means an individual who 54704
installs manufactured housing. 54705

(G) "Mobile home" has the same meaning as in division (O) of 54706
section 4501.01 of the Revised Code. 54707

(H) "Model standards" means the federal manufactured home 54708
installation standards established pursuant to 42 U.S.C. 5404. 54709

(I) "Permanent foundation" has the same meaning as in 54710
division (C)(5) of section 3781.06 of the Revised Code. 54711

(J) "Business" includes any activities engaged in by any 54712
person for the object of gain, benefit, or advantage either direct 54713
or indirect. 54714

(K) "Casual sale" means any transfer of a manufactured home 54715
or mobile home by a person other than a manufactured housing 54716
dealer, manufactured housing salesperson, or manufacturer to an 54717
ultimate consumer or a person who purchases the home for use as a 54718
residence. 54719

(L) "Engaging in business" means commencing, conducting, or 54720
continuing in business, or liquidating a business when the 54721
liquidator thereof holds self out to be conducting such business; 54722
making a casual sale or otherwise making transfers in the ordinary 54723
course of business when the transfers are made in connection with 54724
the disposition of all or substantially all of the transferor's 54725
assets is not engaging in business. 54726

(M) "Manufactured home park operator" ~~has the same meaning as~~ 54727
~~"operator" in section 3733.01 of the Revised Code or "park~~ 54728
operator" means the person who has responsible charge of a 54729
manufactured home park and who is licensed under sections 4781.26 54730
to 4781.35 of the Revised Code. 54731

(N) "Manufactured housing broker" means any person acting as 54732
a selling agent on behalf of an owner of a manufactured home or 54733
mobile home that is subject to taxation under section 4503.06 of 54734
the Revised Code. 54735

(O) "Manufactured housing dealer" means any person engaged in 54736
the business of selling at retail, displaying, offering for sale, 54737
or dealing in manufactured homes or mobile homes. 54738

(P) "Manufacturer" means a person who manufacturers, 54739
assembles, or imports manufactured homes or mobile homes. 54740

(Q) "Retail sale" or "sale at retail" means the act or 54741
attempted act of selling, bartering, exchanging, or otherwise 54742
disposing of a manufactured home or mobile home to an ultimate 54743
purchaser for use as a residence. 54744

(R) "Salesperson" means any individual employed by a 54745

manufactured housing dealer or manufactured housing broker to 54746
sell, display, and offer for sale, or deal in manufactured homes 54747
or mobile homes for a commission, compensation, or other valuable 54748
consideration, but does not mean any public officer performing 54749
official duties. 54750

(S) "Ultimate purchaser" means, with respect to any new 54751
manufactured home, the first person, other than a manufactured 54752
housing dealer purchasing in the capacity of a manufactured 54753
housing dealer, who purchases such new manufactured home for 54754
purposes other than resale. 54755

(T) "Tenant" means a person who is entitled under a rental 54756
agreement with a manufactured home park operator to occupy a 54757
manufactured home park lot and who does not own the home occupying 54758
the lot. 54759

(U) "Owner" means a person who is entitled under a rental 54760
agreement with a manufactured home park operator to occupy a 54761
manufactured home park lot and who owns the home occupying the 54762
lot. 54763

(V) "Resident" means a person entitled under a rental 54764
agreement to the use and occupancy of residential premises to the 54765
exclusion of others. "Resident" includes both tenants and owners. 54766

(W) "Residential premises" means a lot located within a 54767
manufactured home park and the grounds, areas, and facilities 54768
contained within the manufactured home park for the use of 54769
residents generally or the use of which is promised to a resident. 54770

(X) "Rental agreement" means any agreement or lease, written 54771
or oral, that establishes or modifies the terms, conditions, 54772
rules, or any other provisions concerning the use and occupancy of 54773
residential premises by one of the parties. 54774

(Y) "Security deposit" means any deposit of money or property 54775
to secure performance by the resident under a rental agreement. 54776

(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. 54777
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(AA) "Flood" or "flooding" means either of the following: 54787

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following: 54788
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(a) The overflow of inland or tidal waters; 54790

(b) The unusual and rapid accumulation or runoff of surface waters from any source; 54791
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(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. 54793
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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 (AA)(1)(a) of this section. 54798
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(BB) "Flood plain" means the area adjoining any river, 54807

stream, watercourse, or lake that has been or may be covered by 54808
flood water. 54809

(CC) "One-hundred-year flood" means a flood having a one per 54810
cent chance of being equaled or exceeded in any given year. 54811

(DD) "One-hundred-year flood plain" means that portion of a 54812
flood plain inundated by a one-hundred-year flood. 54813

(EE) "Person" has the same meaning as in section 1.59 of the 54814
Revised Code and also includes this state, any political 54815
subdivision of this state, and any other state or local body of 54816
this state. 54817

(FF) "Substantial damage" means damage of any origin 54818
sustained by a manufactured or mobile home that is situated in a 54819
manufactured home park located in a flood plain when the cost of 54820
restoring the home to its condition before the damage occurred 54821
will equal or exceed fifty per cent of the market value of the 54822
home before the damage occurred. 54823

(GG) "Substantially alter" means a change in the layout or 54824
design of a manufactured home park, including, without limitation, 54825
the movement of utilities or changes in established streets, lots, 54826
or sites or in other facilities. In the case of manufactured home 54827
parks located within a one-hundred-year flood plain, 54828
"substantially alter" also includes changes in elevation resulting 54829
from the addition of fill, grading, or excavation that may affect 54830
flood plain management. 54831

(HH) "Tract" means a contiguous area of land that consists of 54832
one or more parcels, lots, or sites that have been separately 54833
surveyed regardless of whether the individual parcels, lots, or 54834
sites have been recorded and regardless of whether the one or more 54835
parcels, lots, or sites are under common or different ownership. 54836

Sec. 4781.02. (A) There is hereby created the manufactured 54837

homes commission which consists of nine members, with three 54838
members appointed by the governor, three members appointed by the 54839
president of the senate, and three members appointed by the 54840
speaker of the house of representatives. 54841

(B)(1) Commission members shall be residents of this state, 54842
except for members appointed pursuant to divisions (B)(3)(b) and 54843
(B)(4)(a) of this section. Members shall be selected from a list 54844
of persons the Ohio manufactured homes association, or any 54845
successor entity, recommends, except for appointments made 54846
pursuant to division (B)(2) of this section. 54847

(2) The governor shall appoint the following members: 54848

(a) One member to represent the board of building standards, 54849
who may be a member of the board or a board employee not in the 54850
classified civil service, with an initial term ending December 31, 54851
2007; 54852

(b) ~~One member to represent the department of health, who may~~ 54853
~~be a department employee not in the classified civil service, with~~ 54854
~~an initial term ending December 31, 2005~~ who is registered as a 54855
sanitarian in accordance with Chapter 4736. of the Revised Code, 54856
has experience with the regulation of manufactured homes, and is 54857
an employee of a health district described in section 3709.01 of 54858
the Revised Code; 54859

(c) One member whose primary residence is a manufactured 54860
home, with an initial term ending December 31, 2006. 54861

(3) The president of the senate shall appoint the following 54862
members: 54863

(a) Two members who are manufactured housing installers who 54864
have been actively engaged in the installation of manufactured 54865
housing for the five years immediately prior to appointment, with 54866
the initial term of one installer ending December 31, 2007, and 54867
the initial term of the other installer ending December 31, 2005. 54868

(b) One member who manufactures manufactured homes in this state or who manufactures manufactured homes in another state and ships homes into this state, to represent manufactured home manufacturers, with an initial term ending December 31, 2006.

(4) The speaker of the house of representatives shall appoint the following members:

(a) One member who operates a manufactured or mobile home retail business in this state to represent manufactured housing dealers, with an initial term ending December 31, 2007;

(b) One member who is a manufactured home park operator or is employed by an operator, with an initial term ending December 31, 2005;

(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.

(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.

(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.

(3) A vacancy on the commission does not impair the authority of the remaining members to exercise all of the commission's powers.

(D)(1) The governor may remove any member from office for

incompetence, neglect of duty, misfeasance, nonfeasance, 54899
malfeasance, or unprofessional conduct in office. 54900

(2) Vacancies shall be filled in the manner of the original 54901
appointment. 54902

Sec. 4781.04. (A) The manufactured homes commission shall 54903
adopt rules pursuant to Chapter 119. of the Revised Code to do all 54904
of the following: 54905

(1) Establish uniform standards that govern the installation 54906
of manufactured housing. Not later than one hundred eighty days 54907
after the secretary of the United States department of housing and 54908
urban development adopts model standards for the installation of 54909
manufactured housing or amends those standards, the commission 54910
shall amend its standards as necessary to be consistent with, and 54911
not less stringent than, the model standards for the design and 54912
installation of manufactured housing the secretary adopts or any 54913
manufacturers' standards that the secretary determines are equal 54914
to or not less stringent than the model standards. 54915

(2) Govern the inspection of the installation of manufactured 54916
housing. The rules shall specify that the commission, any building 54917
department or personnel of any department, ~~any licensor or~~ 54918
~~personnel of any licensor,~~ or any private third party, certified 54919
pursuant to section 4781.07 of the Revised Code shall conduct all 54920
inspections of the installation of manufactured housing located in 54921
manufactured home parks to determine compliance with the uniform 54922
installation standards the commission establishes pursuant to this 54923
section. 54924

~~As used in division (A)(2) of this section, "licensor" has~~ 54925
~~the same meaning as in section 3733.01 of the Revised Code.~~ 54926

(3) Govern the design, construction, installation, approval, 54927
and inspection of foundations and the base support systems for 54928

manufactured housing. The rules shall specify that the commission, 54929
any building department or personnel of any department, ~~any~~ 54930
~~licensor or personnel of any licensor,~~ or any private third party, 54931
certified pursuant to section 4781.07 of the Revised Code shall 54932
conduct all inspections of the installation, foundations, and base 54933
support systems of manufactured housing located in manufactured 54934
home parks to determine compliance with the uniform installation 54935
standards and foundation and base support system design the 54936
commission establishes pursuant to this section. 54937

~~As used in division (A)(3) of this section, "licensor" has~~ 54938
~~the same meaning as in section 3733.01 of the Revised Code.~~ 54939

(4) Govern the training, experience, and education 54940
requirements for manufactured housing installers, manufactured 54941
housing dealers, manufactured housing brokers, and manufactured 54942
housing salespersons; 54943

(5) Establish a code of ethics for manufactured housing 54944
installers; 54945

(6) Govern the issuance, revocation, and suspension of 54946
licenses to manufactured housing installers; 54947

(7) Establish fees for the issuance and renewal of licenses, 54948
for conducting inspections to determine an applicant's compliance 54949
with this chapter and the rules adopted pursuant to it, and for 54950
the commission's expenses incurred in implementing this chapter; 54951

(8) Establish conditions under which a licensee may enter 54952
into contracts to fulfill the licensee's responsibilities; 54953

(9) Govern the investigation of complaints concerning any 54954
violation of this chapter or the rules adopted pursuant to it or 54955
complaints involving the conduct of any licensed manufactured 54956
housing installer or person installing manufactured housing 54957
without a license, licensed manufactured housing dealer, licensed 54958
manufactured housing broker, or manufactured housing salesperson; 54959

(10) Establish a dispute resolution program for the timely resolution of warranty issues involving new manufactured homes, disputes regarding responsibility for the correction or repair of defects in manufactured housing, and the installation of manufactured housing. The rules shall provide for the timely resolution of disputes between manufacturers, manufactured housing dealers, and installers regarding the correction or repair of defects in manufactured housing that are reported by the purchaser of the home during the one-year period beginning on the date of installation of the home. The rules also shall provide that decisions made regarding the dispute under the program are not binding upon the purchaser of the home or the other parties involved in the dispute unless the purchaser so agrees in a written acknowledgement that the purchaser signs and delivers to the program within ten business days after the decision is issued.

(11) Establish the requirements and procedures for the certification of building departments and building department personnel pursuant to section 4781.07 of the Revised Code;

(12) Establish fees to be charged to building departments and building department personnel applying for certification and renewal of certification pursuant to section 4781.07 of the Revised Code;

(13) Develop a policy regarding the maintenance of records for any inspection authorized or conducted pursuant to this chapter. Any record maintained under division (A)(13) of this section shall be a public record under section 149.43 of the Revised Code.

(14) Carry out any other provision of this chapter.

(B) The manufactured homes commission shall do all of the following:

(1) Prepare and administer a licensure examination to

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| determine an applicant's knowledge of manufactured housing | 54991 |
| installation and other aspects of installation the commission | 54992 |
| determines appropriate; | 54993 |
| (2) Select, provide, or procure appropriate examination | 54994 |
| questions and answers for the licensure examination and establish | 54995 |
| the criteria for successful completion of the examination; | 54996 |
| (3) Prepare and distribute any application form this chapter | 54997 |
| requires; | 54998 |
| (4) Receive applications for licenses and renewal of licenses | 54999 |
| and issue licenses to qualified applicants; | 55000 |
| (5) Establish procedures for processing, approving, and | 55001 |
| disapproving applications for licensure; | 55002 |
| (6) Retain records of applications for licensure, including | 55003 |
| all application materials submitted and a written record of the | 55004 |
| action taken on each application; | 55005 |
| (7) Review the design and plans for manufactured housing | 55006 |
| installations, foundations, and support systems; | 55007 |
| (8) Inspect a sample of homes at a percentage the commission | 55008 |
| determines to evaluate the construction and installation of | 55009 |
| manufactured housing installations, foundations, and support | 55010 |
| systems to determine compliance with the standards the commission | 55011 |
| adopts; | 55012 |
| (9) Investigate complaints concerning violations of this | 55013 |
| chapter or the rules adopted pursuant to it, or the conduct of any | 55014 |
| manufactured housing installer, manufactured housing dealer, | 55015 |
| manufactured housing broker, or manufactured housing salesperson; | 55016 |
| (10) Determine appropriate disciplinary actions for | 55017 |
| violations of this chapter; | 55018 |
| (11) Conduct audits and inquiries of manufactured housing | 55019 |
| installers, manufactured housing dealers, and manufactured housing | 55020 |

brokers as appropriate for the enforcement of this chapter. The 55021
commission, or any person the commission employs for the purpose, 55022
may review and audit the business records of any manufactured 55023
housing installer, dealer, or broker during normal business hours. 55024

(12) Approve an installation training course, which may be 55025
offered by the Ohio manufactured homes association or other 55026
entity; 55027

(13) Perform any function or duty necessary to administer 55028
this chapter and the rules adopted pursuant to it. 55029

(C) Nothing in this section shall be construed to limit the 55030
authority of a board of health to enforce section 3701.344 or 55031
Chapters 3703., 3718., and 3781. of the Revised Code. 55032

Sec. 4781.07. (A) Pursuant to rules the manufactured homes 55033
commission adopts, the commission may certify municipal, township, 55034
and county building departments and the personnel of those 55035
departments, ~~licensors as defined in section 3733.01 of the~~ 55036
~~Revised Code and the personnel of those licensors,~~ or any private 55037
third party, to exercise the commission's enforcement authority, 55038
accept and approve plans and specifications for foundations, 55039
support systems and installations, and inspect manufactured 55040
housing foundations, support systems, and manufactured housing 55041
installations. Any certification is effective for three years. 55042

(B) Following an investigation and finding of facts that 55043
support its action, the commission may revoke or suspend 55044
certification. The commission may initiate an investigation on its 55045
own motion or the petition of a person affected by the enforcement 55046
or approval of plans. 55047

Sec. 4781.09. (A) The manufactured homes commission may deny, 55048
suspend, revoke, or refuse to renew the license of any 55049
manufactured home installer for any of the following reasons: 55050

- (1) Failure to satisfy the requirements of section 4781.08 or 4781.10 of the Revised Code; 55051
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- (2) Violation of this chapter or any rule adopted pursuant to it; 55053
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- (3) Making a material misstatement in an application for a license; 55055
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- (4) Installing manufactured housing without a license or without being under the supervision of a licensed manufactured housing installer; 55057
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- (5) Failure to appear for a hearing before the commission or to comply with any final adjudication order of the commission issued pursuant to this chapter; 55060
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- (6) Conviction of a felony or a crime involving moral turpitude; 55063
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- (7) Having had a license revoked, suspended, or denied by the commission during the preceding two years; 55065
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- (8) Having had a license revoked, suspended, or denied by another state or jurisdiction during the preceding two years; 55067
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- (9) Engaging in conduct in another state or jurisdiction that would violate this chapter if committed in this state. 55069
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- (10) Failing to provide written notification of an installation pursuant to division (D) of section 4781.11 of the Revised Code to a county treasurer or county auditor. 55071
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- (B)(1) Any person whose license or license application is revoked, suspended, denied, or not renewed or upon whom a civil penalty is imposed ~~pursuant to division (C) of this section~~ may request an adjudication hearing on the matter within thirty days after receipt of the notice of the action. The hearing shall be held in accordance with Chapter 119. of the Revised Code. 55074
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- (2) Any licensee or applicant may appeal an order made 55080

pursuant to an adjudication hearing in the manner provided in 55081
section 119.12 of the Revised Code. 55082

~~(C) As an alternative to suspending, revoking, or refusing to 55083
renew a manufactured housing installer's license, the commission 55084
may impose a civil penalty of not less than one hundred dollars or 55085
more than five hundred dollars per violation of this chapter or 55086
any rule adopted pursuant to it. The commission shall deposit 55087
penalties in the occupational licensing and regulatory fund 55088
pursuant to section 4743.05 of the Revised Code. 55089~~

~~(D) A person whose license is suspended, revoked, or not 55090
renewed may apply for a new license two years after the date on 55091
which the license was suspended, revoked, or not renewed. 55092~~

Sec. 4781.121. (A) The manufactured homes commission, 55093
pursuant to section 4781.04 of the Revised Code, may investigate 55094
any person who allegedly has committed a violation. If, after an 55095
investigation the commission determines that reasonable evidence 55096
exists that a person has committed a violation, within seven days 55097
after that determination, the commission shall send a written 55098
notice to that person in the same manner as prescribed in section 55099
119.07 of the Revised Code for licensees, except that the notice 55100
shall specify that a hearing will be held and specify the date, 55101
time, and place of the hearing. 55102

(B) The commission shall hold a hearing regarding the alleged 55103
violation in the same manner prescribed for an adjudication 55104
hearing under section 119.09 of the Revised Code. If the 55105
commission, after the hearing, determines that a violation has 55106
occurred, the commission, upon an affirmative vote of five of its 55107
members, may impose a fine not exceeding one thousand dollars per 55108
violation per day. The commission's determination is an order that 55109
the person may appeal in accordance with section 119.12 of the 55110
Revised Code. 55111

(C) If the person who allegedly committed a violation fails to appear for a hearing, the commission may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the commission for a hearing. 55112
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(D) If the commission assesses a person a civil penalty for a violation and the person fails to pay that civil penalty within the time period prescribed by the commission pursuant to section 131.02 of the Revised Code, the commission shall forward to the attorney general the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the person also shall pay any fee assessed by the attorney general for collection of the civil penalty. 55116
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(E) The authority provided to the commission pursuant to this section, and any fine imposed under this section, shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter. Any fines collected pursuant to this section shall be used solely to administer and enforce this chapter and rules adopted under it. Any fees collected pursuant to this section shall be 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 the rules adopted thereunder. The fees shall be used only for the purpose of administering and enforcing sections 4781.26 to 4781.35 of the Revised Code and the rules adopted thereunder. 55125
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(F) As used in this section, "violation" means a violation of section 4781.11, 4781.16, or 4781.27, or any rule adopted pursuant to section 4781.04, of the Revised Code. 55137
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Sec. 4781.14. ~~(A) Except as provided in division (A)(3) of section 3733.02 of the Revised Code, the state, through the~~ The manufactured homes commission, has exclusive authority to regulate 55140
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manufactured home installers, the installation of manufactured 55143
housing, and manufactured housing foundations and support systems 55144
in ~~the~~ this state. By enacting this chapter, it is the intent of 55145
the general assembly to preempt municipal corporations and other 55146
political subdivisions from regulating and licensing manufactured 55147
housing installers and regulating and inspecting the installation 55148
of manufactured housing and manufactured housing foundations and 55149
support systems. 55150

(B) ~~Except as provided in division (A)(3) of section 3733.02~~ 55151
~~of the Revised Code, the~~ The manufactured homes commission has 55152
exclusive power to adopt rules of uniform application throughout 55153
the state governing installation of manufactured housing, the 55154
inspection of manufactured housing foundations and support 55155
systems, the inspection of the installation of manufactured 55156
housing, the training and licensing of manufactured housing 55157
installers, and the investigation of complaints concerning 55158
manufactured housing installers. 55159

(C) ~~Except as provided in division (A)(3) of section 3733.02~~ 55160
~~of the Revised Code, the~~ The rules the commission adopts pursuant 55161
to this chapter are the exclusive rules governing the installation 55162
of manufactured housing, the design, construction, and approval of 55163
foundations for manufactured housing, the licensure of 55164
manufactured home installers, and the fees charged for licensure 55165
of manufactured home installers. No political subdivision of the 55166
state or any department or agency of the state may establish any 55167
other standards governing the installation of manufactured 55168
housing, manufactured housing foundations and support systems, the 55169
licensure of manufactured housing installers, or fees charged for 55170
the licensure of manufactured housing installers. 55171

(D) Nothing in this section limits the authority of the 55172
attorney general to enforce Chapter 1345. of the Revised Code or 55173

to take any action permitted by the Revised Code against 55174
manufactured housing installers, retailers, or manufacturers. 55175

Sec. 4781.15. The remedies provided in ~~sections 4781.01 to~~ 55176
~~4781.14 of the Revised Code~~ this chapter are in addition to 55177
remedies otherwise available for the same conduct under state or 55178
local law. 55179

Sec. ~~3733.02~~ 4781.26. (A)~~(1)~~ The ~~public health council~~ 55180
manufactured homes commission, subject to Chapter 119. of the 55181
Revised Code, shall adopt, and has the exclusive power to adopt, 55182
rules of uniform application throughout the state governing the 55183
review of plans, issuance of flood plain management permits, and 55184
issuance of licenses for manufactured home parks; the location, 55185
layout, density, construction, drainage, sanitation, safety, and 55186
operation of those parks; and notices of flood events concerning, 55187
and flood protection at, those parks. The rules pertaining to 55188
flood plain management shall be consistent with and not less 55189
stringent than the flood plain management criteria of the national 55190
flood insurance program adopted under the "National Flood 55191
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 55192
amended. The rules shall not apply to the construction, erection, 55193
or manufacture of any building to which section 3781.06 of the 55194
Revised Code is applicable. 55195

~~(2)~~(B) The rules pertaining to manufactured home parks 55196
constructed after June 30, 1971, shall specify that each home must 55197
be placed on its lot to provide not less than fifteen feet between 55198
the side of one home and the side of another home, ten feet 55199
between the end of one home and the side of another home, and five 55200
feet between the ends of two homes placed end to end. 55201

~~(3)~~(C) The manufactured homes commission shall determine 55202
compliance with the installation, blocking, tiedown, foundation, 55203

and base support system standards for manufactured housing located 55204
in manufactured home parks adopted by the commission pursuant to 55205
section 4781.04 of the Revised Code. All inspections of the 55206
installation, blocking, tiedown, foundation, and base support 55207
systems of manufactured housing in a manufactured home park that 55208
the ~~department of health or a licenser~~ commission conducts shall 55209
be conducted by a person ~~who has completed an installation~~ 55210
~~training course approved by~~ the manufactured homes commission 55211
certifies pursuant to ~~division (B)(12) of section 4781.04~~ 4781.07 55212
of the Revised Code. 55213

~~As used in division (A)(3) of this section, "manufactured~~ 55214
~~housing" has the same meaning as in section 4781.01 of the Revised~~ 55215
~~Code.~~ 55216

~~(B) The public health council, in accordance with Chapter~~ 55217
~~119. of the Revised Code, shall adopt rules of uniform application~~ 55218
~~throughout the state establishing requirements and procedures in~~ 55219
~~accordance with which the director of health may authorize~~ 55220
~~licensors for the purposes of sections 3733.022 and 3733.025 of~~ 55221
~~the Revised Code. The rules shall include at least provisions~~ 55222
~~under which a licenser may enter into contracts for the purpose of~~ 55223
~~fulfilling the licenser's responsibilities under either or both of~~ 55224
~~those sections.~~ 55225

(D) The manufactured homes commission may enter into 55226
contracts for the purpose of fulfilling the commission's annual 55227
inspection responsibilities for manufactured home parks under this 55228
chapter. Boards of health of city or general health districts 55229
shall have the right of first refusal for those contracts. 55230

Sec. 3733.03 4781.27. (A)(1) On or after the first day of 55231
December, but before the first day of January of the next year, 55232
every person who intends to operate a manufactured home park shall 55233
procure a license to operate the park for the next year from the 55234

~~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.

(2) No manufactured home park shall be maintained or operated in this state without a license.

(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 55266
licensing and all inspections. 55267

~~The fee also shall include any additional amount determined 55268
by rule of the public health council, which shall be collected and 55269
transmitted by the board of health to the director of health 55270
pursuant to section 3709.092 of the Revised Code and used only for 55271
the purpose of administering and enforcing sections 3733.01 to 55272
3733.08 of the Revised Code and the rules adopted under those 55273
sections. The portion of any fee retained by the board of health 55274
Any fees collected shall be paid into a special fund transmitted 55275
to the treasurer of state and shall be credited to the 55276
manufactured homes commission regulatory fund created in section 55277
4781.54 of the Revised Code and used only for the purpose of 55278
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 55279
4781.35 of the Revised Code and the rules adopted thereunder. 55280~~

Sec. ~~3733.05~~ 4781.29. ~~The licensor of the health district in 55281
which a manufactured home park is or is to be located, in 55282
accordance with Chapter 119. of the Revised Code, manufactured 55283
homes commission may refuse to grant, may suspend, or may revoke 55284
any license granted to any person for failure to comply with 55285
sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or 55286
with any rule adopted ~~by the public health council~~ under section 55287
~~3733.02~~ 4781.26 of the Revised Code. 55288~~

Sec. ~~3733.06~~ 4781.30. (A) Upon a license being issued under 55289
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code, 55290
any operator shall have the right to rent or use each lot for the 55291
parking or placement of a manufactured home or mobile home to be 55292
used for human habitation without interruption for any period 55293
coextensive with any license or consecutive licenses issued under 55294
sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code. 55295

(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 on or with respect to the operation or ownership of manufactured home parks within this state, except that the licensor may charge additional reasonable fees for the collection and bacteriological examination of any necessary water samples taken from any such park.

Sec. ~~3733.021~~ 4781.31. (A) No person shall cause development to occur within any portion of a manufactured home park until the plans for the development have been submitted to and reviewed and approved by the ~~director of health~~ manufactured homes commission. This division does not require that plans be submitted to the ~~director~~ commission for approval for the replacement of manufactured or mobile homes on previously approved lots in a manufactured home park when no development is to occur in connection with the replacement. Within thirty days after receipt of the plans, all supporting documents and materials required to complete the review, and the applicable plan review fee established under division (D) of this section, the ~~director~~ commission shall approve or disapprove the plans.

(B) Any person aggrieved by the ~~director's~~ commission's

disapproval of a set of plans under division (A) of this section 55327
may request a hearing on the matter within thirty days after 55328
receipt of the ~~director's~~ commission's notice of the disapproval. 55329
The hearing shall be held in accordance with Chapter 119. of the 55330
Revised Code. Thereafter, the disapproval may be appealed in the 55331
manner provided in section 119.12 of the Revised Code. 55332

(C) The ~~director~~ commission shall establish a system by which 55333
development occurring within a manufactured home park is inspected 55334
or verified in accordance with rules adopted under ~~division (A) of~~ 55335
section ~~3733.02~~ 4781.26 of the Revised Code to ensure that the 55336
development complies with the plans approved under division (A) of 55337
this section. 55338

(D) The ~~public health council~~ commission shall establish fees 55339
for reviewing plans under division (A) of this section and 55340
conducting inspections under division (C) of this section. 55341

(E) The ~~director~~ commission shall charge the appropriate fees 55342
established under division (D) of this section for reviewing plans 55343
under division (A) of this section and conducting inspections 55344
under division (C) of this section. All such plan review and 55345
inspection fees received by the ~~director~~ commission shall be 55346
transmitted to the treasurer of state and shall be credited to the 55347
~~general operations~~ occupational licensing and regulatory fund 55348
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 55349
credited to the fund shall be used only for the purpose of 55350
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 55351
4781.35 of the Revised Code and rules adopted under those 55352
sections. 55353

(F) Plan approvals issued under this section do not 55354
constitute an exemption from the land use and building 55355
requirements of the political subdivision in which the 55356
manufactured home park is or is to be located. 55357

~~Sec. 3733.022~~ 4781.32. (A) No person shall cause development 55358
to occur or cause the replacement of a mobile or manufactured home 55359
within any portion of a manufactured home park that is located 55360
within a one-hundred-year flood plain unless the person first 55361
obtains a permit from the ~~director of health or a licensor~~ 55362
~~authorized by the director~~ manufactured homes commission. If the 55363
development for which a permit is required under this division is 55364
to occur on a lot where a mobile or manufactured home is or is to 55365
be located, the owner of the home and the operator of the 55366
manufactured home park shall jointly obtain the permit. Each of 55367
the persons to whom a permit is jointly issued is responsible for 55368
compliance with the provisions of the approved permit that are 55369
applicable to that person. 55370

The ~~director or a licensor authorized by the director~~ 55371
commission shall disapprove an application for a permit required 55372
under this division unless the ~~director or the licensor~~ commission 55373
finds that the proposed development or replacement of a mobile or 55374
manufactured home complies with the rules adopted under ~~division~~ 55375
~~(A) of section 3733.02~~ 4781.26 of the Revised Code. No permit is 55376
required under this division for the construction, erection, or 55377
manufacture of any building to which section 3781.06 of the 55378
Revised Code applies. 55379

The ~~director or a licensor authorized by the director~~ 55380
commission may suspend or revoke a permit issued under this 55381
division for failure to comply with the rules adopted under 55382
~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 55383
pertaining to flood plain management or for failure to comply with 55384
the approved permit. 55385

Any person aggrieved by the disapproval, suspension, or 55386
revocation of a permit under this division by the ~~director or by a~~ 55387
~~licensor authorized by the director~~ commission may request a 55388

hearing on the matter within thirty days after receipt of the 55389
notice of the disapproval, suspension, or revocation. The hearing 55390
shall be held in accordance with Chapter 119. of the Revised Code. 55391
Thereafter, an appeal of the disapproval, suspension, or 55392
revocation may be taken in the manner provided in section 119.12 55393
of the Revised Code. 55394

(B) The ~~public health council~~ commission shall establish fees 55395
for the issuance of permits under division (A) of this section and 55396
for necessary inspections conducted to determine compliance with 55397
those permits. 55398

(C) The ~~director or a licenser authorized by the director~~ 55399
commission shall charge the appropriate fee established under 55400
division (B) of this section for the issuance of a permit under 55401
division (A) of this section or for conducting any necessary 55402
inspection to determine compliance with the permit. If the 55403
~~director~~ commission issues such a permit or conducts such an 55404
inspection, the fee for the permit or inspection shall be 55405
transmitted to the treasurer of state and shall be credited to the 55406
~~general operations~~ occupational licensing and regulatory fund 55407
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 55408
credited to the fund shall be used ~~by the director~~ only for the 55409
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 55410
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 55411
sections. ~~If the licenser is a board of health, the permit or~~ 55412
~~inspection fee shall be deposited to the credit of the special~~ 55413
~~fund of the health district created in section 3733.04 of the~~ 55414
~~Revised Code and shall be used only for the purpose set forth in~~ 55415
~~that section.~~ 55416

Sec. ~~3733.024~~ 4781.33. (A) When a flood event affects a 55417
manufactured home park, the operator of the manufactured home 55418
park, in accordance with rules adopted under ~~division (A) of~~ 55419

section ~~3733.02~~ 4781.26 of the Revised Code, shall notify the 55420
~~licensor having jurisdiction of the occurrence of~~ manufactured 55421
~~homes commission and the board of health having jurisdiction where~~ 55422
the flood event occurred within forty-eight hours after the end of 55423
the flood event. The commission, after receiving notification, 55424
shall immediately notify the board of health. 55425

~~No person shall fail to comply with this division.~~ 55426

~~(B) The licensor having jurisdiction where a flood event~~ 55427
~~occurred that affected a manufactured home park shall notify the~~ 55428
~~director of health of the occurrence of the flood event within~~ 55429
~~twenty four hours after being notified of the flood event under~~ 55430
~~division (A) of this section. Within forty eight hours after~~ After 55431
~~being notified of such a flood event by a licensor, the director~~ 55432
board of health shall cause an inspection to be made of the 55433
manufactured home park named in the notice. The board of health 55434
shall issue a report of the inspection to the commission within 55435
ten days after the inspection is completed. 55436

Sec. ~~3733.025~~ 4781.34. (A) If a mobile or manufactured home 55437
that is located in a flood plain is substantially damaged, the 55438
owner of the home shall make all alterations, repairs, or changes 55439
to the home, and the operator of the manufactured home park shall 55440
make all alterations, repairs, or changes to the lot on which the 55441
home is located, that are necessary to ensure compliance with the 55442
flood plain management rules adopted under ~~division (A) of~~ section 55443
~~3733.02~~ 4781.26 of the Revised Code. Such alterations, repairs, or 55444
changes may include, without limitation, removal of the home or 55445
other structures. 55446

No person shall fail to comply with this division. 55447

(B) No person shall cause to be performed any alteration, 55448
repair, or change required by division (A) of this section unless 55449
the person first obtains a permit from the ~~director of health or a~~ 55450

~~licensor authorized by the director manufactured homes commission. 55451~~
~~The owner of the home and the operator of the manufactured home 55452~~
~~park shall jointly obtain the permit required by this division. 55453~~
~~Each of the persons to whom a permit is jointly issued is 55454~~
~~responsible for compliance with the provisions of the approved 55455~~
~~permit that are applicable to that person. 55456~~

~~The director or a licensor authorized by the director 55457~~
~~commission shall disapprove an application for a permit required 55458~~
~~under this division unless the ~~director or the licensor~~ commission 55459~~
~~finds that the proposed alteration, repair, or change complies 55460~~
~~with the rules adopted under ~~division (A) of section 3733.02~~ 55461~~
~~4781.26 of the Revised Code. No permit is required under this 55462~~
~~division for the construction, erection, or manufacture of any 55463~~
~~building to which section 3781.06 of the Revised Code applies. 55464~~

~~The director or a licensor authorized by the director 55465~~
~~commission may suspend or revoke a permit issued under this 55466~~
~~division for failure to comply with the rules adopted under 55467~~
~~~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 55468~~  
~~pertaining to flood plain management or for failure to comply with 55469~~  
~~the approved permit for making alterations, repairs, or changes to 55470~~  
~~the lot on which the manufactured home is located. 55471~~

~~Any person aggrieved by the disapproval, suspension, or 55472~~  
~~revocation of a permit under this division by the ~~director or by a~~ 55473~~  
~~~~licensor authorized by the director~~ commission may request a 55474~~  
~~hearing on the matter within thirty days after receipt of the 55475~~
~~notice of the disapproval, suspension, or revocation. The hearing 55476~~
~~shall be held in accordance with Chapter 119. of the Revised Code. 55477~~
~~Thereafter, an appeal of the disapproval, suspension, or 55478~~
~~revocation may be taken in the manner provided in section 119.12 55479~~
~~of the Revised Code and for necessary inspections conducted to 55480~~
~~determine compliance with those permits. 55481~~

(C) ~~The public health council~~ commission shall establish fees 55482

for the issuance of permits under division (B) of this section and 55483
for necessary inspections conducted to determine compliance with 55484
those permits for making alterations, repairs, or changes to the 55485
lot on which the manufactured home is located. 55486

(D) The ~~director or a licensor authorized by the director~~ 55487
commission shall charge the appropriate fee established under 55488
division (C) of this section for the issuance of a permit under 55489
division (B) of this section or for conducting any necessary 55490
inspection to determine compliance with the permit. If the 55491
~~director~~ commission issues such a permit or conducts such an 55492
inspection, the fee for the permit or inspection shall be 55493
transmitted to the treasurer of state and shall be credited to the 55494
~~general operations~~ occupational licensing and regulatory fund 55495
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 55496
credited to the fund shall be used ~~by the director~~ only for the 55497
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 55498
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 55499
sections. ~~If the licensor is a board of health, the permit or~~ 55500
~~inspection fee shall be deposited to the credit of the special~~ 55501
~~fund of the health district created in section 3733.04 of the~~ 55502
~~Revised Code and shall be used only for the purpose set forth in~~ 55503
~~that section.~~ 55504

Sec. ~~3733.08~~ 4781.35. (A) No person shall violate sections 55505
~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the 55506
rules adopted thereunder. 55507

(B) The prosecuting attorney of the county, the city director 55508
of law, or the attorney general, upon complaint of the ~~licensor or~~ 55509
~~the director of health~~ manufactured homes commission, shall 55510
prosecute to termination or bring an action for injunction against 55511
any person violating sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 55512
of the Revised Code or the rules adopted thereunder. 55513

Sec. ~~3733.09~~ 4781.36. (A) Subject to section ~~3733.091~~ 4781.37 55514
of the Revised Code, a park operator shall not retaliate against a 55515
resident by increasing the resident's rent, decreasing services 55516
that are due to the resident, refusing to renew or threatening to 55517
refuse to renew the rental agreement with the resident, or 55518
bringing or threatening to bring an action for possession of the 55519
resident's premises because: 55520

(1) The resident has complained to an appropriate 55521
governmental agency of a violation of a building, housing, health, 55522
or safety code that is applicable to the premises, and the 55523
violation materially affects health and safety; 55524

(2) The resident has complained to the park operator of any 55525
violation of section ~~3733.10~~ 4781.38 of the Revised Code; 55526

(3) The resident joined with other residents for the purpose 55527
of negotiating or dealing collectively with the park operator on 55528
any of the terms and conditions of a rental agreement. 55529

(B) If a park operator acts in violation of division (A) of 55530
this section, the resident may: 55531

(1) Use the retaliatory action of the park operator as a 55532
defense to an action by the park operator to recover possession of 55533
the premises; 55534

(2) Recover possession of the premises; 55535

(3) Terminate the rental agreement. 55536

In addition, the resident may recover from the park operator 55537
any actual damages together with reasonable attorneys fees. 55538

(C) Nothing in division (A) of this section prohibits a park 55539
operator from increasing the rent to reflect the cost of 55540
improvements installed by the park operator in or about the 55541
premises or to reflect an increase in other costs of operation of 55542
the premises. 55543

Sec. ~~3733.091~~ 4781.37. (A) Notwithstanding section ~~3733.09~~ 55544
~~4781.36~~ of the Revised Code, a park operator may bring an action 55545
under Chapter 1923. of the Revised Code for possession of the 55546
premises if any of the following applies: 55547

(1) The resident is in default in the payment of rent. 55548

(2) The violation of the applicable building, housing, 55549
health, or safety code that the resident complained of was 55550
primarily caused by any act or lack of reasonable care by the 55551
resident, by any other person in the resident's household, or by 55552
anyone on the premises with the consent of the resident. 55553

(3) The resident is holding over the resident's term. 55554

(4) The resident is in violation of rules of the ~~public~~ 55555
~~health council~~ manufactured homes commission adopted pursuant to 55556
section ~~3733.02~~ 4781.26 of the Revised Code or rules of the 55557
manufactured home park adopted pursuant to the rules of the ~~public~~ 55558
~~health council~~ commission. 55559

(5) The resident has been absent from the manufactured home 55560
park for a period of thirty consecutive days prior to the 55561
commencement of the action, and the resident's manufactured home, 55562
mobile home, or recreational vehicle parked in the manufactured 55563
home park has been left unoccupied for that thirty-day period, 55564
without notice to the park operator and without payment of rent 55565
due under the rental agreement. 55566

(B) The maintenance of an action by the park operator under 55567
this section does not prevent the resident from recovering damages 55568
for any violation by the park operator of the rental agreement or 55569
of section ~~3733.10~~ 4781.38 of the Revised Code. 55570

Sec. ~~3733.10~~ 4781.38. (A) A park operator who is a party to a 55571
rental agreement shall: 55572

(1) Comply with the requirements of all applicable building, 55573
housing, health, and safety codes which materially affect health 55574
and safety, and comply with rules of the ~~public health council~~ 55575
manufactured homes commission; 55576

(2) Make all repairs and do whatever is reasonably necessary 55577
to put and keep the premises in a fit and habitable condition; 55578

(3) Keep all common areas of the premises in a safe and 55579
sanitary condition; 55580

(4) Maintain in good and safe working order and condition all 55581
electrical and plumbing fixtures and appliances, and septic 55582
systems, sanitary and storm sewers, refuse receptacles, and well 55583
and water systems that are supplied or required to be supplied by 55584
~~him~~ the park operator; 55585

(5) Not abuse the right of access conferred by division (B) 55586
of section ~~3733.101~~ 4781.39 of the Revised Code; 55587

(6) Except in the case of emergency or if it is impracticable 55588
to do so, give the resident reasonable notice of ~~his~~ the park 55589
operator's intent to enter onto the residential premises and enter 55590
only at reasonable times. Twenty-four hours' notice shall be 55591
presumed to be a reasonable notice in the absence of evidence to 55592
the contrary. 55593

(B) If the park operator violates any provision of this 55594
section, makes a lawful entry onto the residential premises in an 55595
unreasonable manner, or makes repeated demands for entry otherwise 55596
lawful which demands have the effect of harassing the resident, 55597
the resident may recover actual damages resulting from the 55598
violation, entry, or demands and injunctive relief to prevent the 55599
recurrence of the conduct, and if ~~he~~ the resident obtains a 55600
judgment, reasonable attorneys' fees, or terminate the rental 55601
agreement. 55602

Sec. ~~3733.101~~ 4781.39. (A) A resident who is a party to a rental agreement shall:

(1) Keep that part of the premises that the resident occupies and uses safe and sanitary;

(2) Dispose of all rubbish, garbage, and other waste in a clean, safe, and sanitary manner;

(3) Comply with the requirements imposed on residents by all applicable state and local housing, health, and safety codes, rules of the ~~public health council~~ manufactured homes commission, and rules of the manufactured home park;

(4) Personally refrain, and forbid any other person who is on the premises with the resident's permission, from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance, or other part of the residential premises;

(5) Conduct self and require other persons on the premises with the resident's consent to conduct themselves in a manner that will not disturb the resident's neighbors' peaceful enjoyment of the manufactured home park.

(B) The resident shall not unreasonably withhold consent for the park operator to enter the home to inspect utility connections, or enter onto the premises in order to inspect the premises, make ordinary, necessary, or agreed repairs, decorations, alterations, or improvements, deliver parcels which are too large for the resident's mail facilities, or supply necessary or agreed services.

(C) If the resident violates any provision of this section, the park operator may recover any actual damages which result from the violation and reasonable attorneys' fees. This remedy is in addition to any right of the park operator to terminate the rental agreement, to maintain an action for the possession of the

premises, or injunctive relief to compel access under division (B) 55633
of this section. 55634

Sec. ~~3733.11~~ 4781.40. (A)(1) The park operator shall offer 55635
each home owner a written rental agreement for a manufactured home 55636
park lot for a term of one year or more that contains terms 55637
essentially the same as any alternative month-to-month rental 55638
agreement offered to current and prospective tenants and owners. 55639
The park operator shall offer the minimum one-year rental 55640
agreement to the owner prior to installation of the home in the 55641
manufactured home park or, if the home is in the manufactured home 55642
park, prior to the expiration of the owner's existing rental 55643
agreement. 55644

(2) The park operator shall deliver the offer to the owner by 55645
certified mail, return receipt requested, or in person. If the 55646
park operator delivers the offer to the owner in person, the owner 55647
shall complete a return showing receipt of the offer. If the owner 55648
does not accept the offer, the park operator is discharged from 55649
any obligation to make any further such offers. If the owner 55650
accepts the offer, the park operator shall, at the expiration of 55651
each successive rental agreement, offer the owner another rental 55652
agreement, for a term that is mutually agreed upon, and that 55653
contains terms essentially the same as the alternative 55654
month-to-month agreement. The park operator shall deliver 55655
subsequent rental offers by ordinary mail or personal delivery. If 55656
the park operator sells the manufactured home park to another 55657
manufactured home park operator, the purchaser is bound by the 55658
rental agreements entered into by the purchaser's predecessor. 55659

(3) If the park operator sells the manufactured home park for 55660
a use other than as a manufactured home park, the park operator 55661
shall give each tenant and owner a written notification by 55662
certified mail, return receipt requested, or by handing it to the 55663

tenant or owner in person. If the park operator delivers the 55664
notification in person, the recipient shall complete a return 55665
showing receipt of the notification. This notification shall 55666
contain notice of the sale of the manufactured home park, and 55667
notice of the date by which the tenant or owner shall vacate. The 55668
date by which the tenant shall vacate shall be at least one 55669
hundred twenty days after receipt of the written notification, and 55670
the date by which the owner shall vacate shall be at least one 55671
hundred eighty days after receipt of the written notification. 55672

(B) A park operator shall fully disclose in writing all fees, 55673
charges, assessments, including rental fees, and rules prior to a 55674
tenant or owner executing a rental agreement and assuming 55675
occupancy in the manufactured home park. No fees, charges, 55676
assessments, or rental fees so disclosed may be increased nor 55677
rules changed by a park operator without specifying the date of 55678
implementation of the changed fees, charges, assessments, rental 55679
fees, or rules, which date shall be not less than thirty days 55680
after written notice of the change and its effective date to all 55681
tenants or owners in the manufactured home park, and no fee, 55682
charge, assessment, or rental fee shall be increased during the 55683
term of any tenant's or owner's rental agreement. Failure on the 55684
part of the park operator to fully disclose all fees, charges, or 55685
assessments shall prevent the park operator from collecting the 55686
undisclosed fees, charges, or assessments. If a tenant or owner 55687
refuses to pay any undisclosed fees, charges, or assessments, the 55688
refusal shall not be used by the park operator as a cause for 55689
eviction in any court. 55690

(C) A park operator shall promulgate rules governing the 55691
rental or occupancy of a lot in the manufactured home park. The 55692
rules shall not be unreasonable, arbitrary, or capricious. A copy 55693
of the rules and any amendments to them shall be delivered by the 55694
park operator to the tenant or owner prior to signing the rental 55695

agreement. A copy of the rules and any amendments to them shall be 55696
posted in a conspicuous place upon the manufactured home park 55697
grounds. 55698

(D) No park operator shall require an owner to purchase from 55699
the park operator any personal property. The park operator may 55700
determine by rule the style or quality of skirting, equipment for 55701
tying down homes, manufactured or mobile home accessories, or 55702
other equipment to be purchased by an owner from a vendor of the 55703
owner's choosing, provided that the equipment is readily available 55704
to the owner. Any such equipment shall be installed in accordance 55705
with the manufactured home park rules. 55706

(E) No park operator shall charge any owner who chooses to 55707
install an electric or gas appliance in a home an additional fee 55708
solely on the basis of the installation, unless the installation 55709
is performed by the park operator at the request of the owner, nor 55710
shall the park operator restrict the installation, service, or 55711
maintenance of the appliance, restrict the ingress or egress of 55712
repairpersons to the manufactured home park for the purpose of 55713
installation, service, or maintenance of the appliance, nor 55714
restrict the making of any interior improvement in a home, if the 55715
installation or improvement is in compliance with applicable 55716
building codes and other provisions of law and if adequate utility 55717
services are available for the installation or improvement. 55718

(F) No park operator shall require a tenant to lease or an 55719
owner to purchase a manufactured or mobile home from the park 55720
operator or any specific person as a condition of or prerequisite 55721
to entering into a rental agreement. 55722

(G) No park operator shall require an owner to use the 55723
services of the park operator or any other specific person for 55724
installation of the manufactured or mobile home on the residential 55725
premises or for the performance of any service. 55726

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|---|---|
| (H) No park operator shall: | 55727 |
| (1) Deny any owner the right to sell the owner's manufactured home within the manufactured home park if the owner gives the park operator ten days' notice of the intention to sell the home; | 55728 55729 55730 |
| (2) Require the owner to remove the home from the manufactured home park solely on the basis of the sale of the home; | 55731 55732 55733 |
| (3) Unreasonably refuse to enter into a rental agreement with a purchaser of a home located within the operator's manufactured home park; | 55734 55735 55736 |
| (4) Charge any tenant or owner any fee, charge, or assessment, including a rental fee, that is not set forth in the rental agreement or, if the rental agreement is oral, is not set forth in a written disclosure given to the tenant or owner prior to the tenant or owner entering into a rental agreement; | 55737 55738 55739 55740 55741 |
| (5) Charge any owner any fee, charge, or assessment because of the transfer of ownership of a home or because a home is moved out of or into the manufactured home park, except a charge for the actual costs and expenses that are incurred by the park operator in moving the home out of or into the manufactured home park, or in installing the home in the manufactured home park and that have not been reimbursed by another tenant or owner. | 55742 55743 55744 55745 55746 55747 55748 |
| (I) If the park operator violates any provision of divisions (A) to (H) of this section, the tenant or owner may recover actual damages resulting from the violation, and, if the tenant or owner obtains a judgment, reasonable attorneys' fees, or terminate the rental agreement. | 55749 55750 55751 55752 55753 |
| (J) No rental agreement shall require a tenant or owner to sell, lease, or sublet the tenant's or owner's interest in the rental agreement or the manufactured or mobile home that is or will be located on the lot that is the subject of the rental | 55754 55755 55756 55757 |

agreement to any specific person or through any specific person as 55758
the person's agent. 55759

(K) No park operator shall enter into a rental agreement with 55760
the owner of a manufactured or mobile home for the use of 55761
residential premises, if the rental agreement requires the owner 55762
of the home, as a condition to the owner's renting, occupying, or 55763
remaining on the residential premises, to pay the park operator or 55764
any other person specified in the rental agreement a fee or any 55765
sum of money based on the sale of the home, unless the owner of 55766
the home uses the park operator or other person as the owner's 55767
agent in the sale of the home. 55768

(L) A park operator and a tenant or owner may include in a 55769
rental agreement any terms and conditions, including any term 55770
relating to rent, the duration of an agreement, and any other 55771
provisions governing the rights and obligations of the parties 55772
that are not inconsistent with or prohibited by sections 3733.09 55773
to 3733.20 of the Revised Code or any other rule of law. 55774

(M) Notwithstanding any other provision of the Revised Code, 55775
the owner of a manufactured or mobile home ~~that was previously~~ 55776
~~titled by a dealer~~ may utilize the services of a manufactured home 55777
housing dealer or broker licensed under Chapter 4517. of the 55778
Revised Code or a person properly licensed under Chapter ~~4735-~~ 55779
4781. of the Revised Code to sell or lease the home. 55780

Sec. ~~3733.12~~ 4781.41. (A) If a park operator fails to fulfill 55781
any obligation imposed upon ~~him~~ the park operator by section 55782
~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or 55783
the conditions of the premises are such that the resident 55784
reasonably believes that a park operator has failed to fulfill any 55785
such obligations, or a governmental agency has found that the 55786
premises are not in compliance with building, housing, health, or 55787
safety codes which apply to any condition of the residential 55788

premises that could materially affect the health and safety of an 55789
occupant, the resident may give notice in writing to the park 55790
operator specifying the acts, omissions, or code violations that 55791
constitute noncompliance with such provisions. The notice shall be 55792
sent to the person or place where rent is normally paid. 55793
55794

(B) If a park operator receives the notice described in 55795
division (A) of this section and after receipt of the notice fails 55796
to remedy the condition within a reasonable time, considering the 55797
severity of the condition and the time necessary to remedy such 55798
condition, or within thirty days, whichever is sooner, and if the 55799
resident is current in rent payments due under the rental 55800
agreement, the resident may do one of the following: 55801

(1) Deposit all rent that is due and thereafter becomes due 55802
the park operator with the clerk of court of the municipal or 55803
county court having jurisdiction in the territory in which the 55804
residential premises are located; 55805

(2) Apply to the court for an order directing the park 55806
operator to remedy the condition. As part thereof, the resident 55807
may deposit rent pursuant to division (B)(1) of this section, and 55808
may apply for an order reducing the periodic rent due the park 55809
operator until such time as the park operator does remedy the 55810
condition, and may apply for an order to use the rent deposited to 55811
remedy the condition. In any order issued pursuant to this 55812
division, the court may require the resident to deposit rent with 55813
the clerk of court as provided in division (B)(1) of this section. 55814

Sec. ~~3733.121~~ 4781.42. (A) Whenever a resident deposits rent 55815
with the clerk of a court as provided in section ~~3733.12~~ 4781.41 55816
of the Revised Code, the clerk shall give written notice of this 55817
fact to the park operator and to ~~his~~ the park operator's agent, if 55818
any. 55819

(B) The clerk shall place all rent deposited with ~~him~~ the clerk in a separate rent escrow account in the name of the clerk in a bank or building and loan association domiciled in this state. 55820
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(C) The clerk shall keep in a separate docket an account of each deposit, with the name and address of the resident, and the name and address of the park operator and of ~~his~~ the park operator's agent, if any. 55824
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(D) For ~~his~~ the clerk's costs, the clerk may charge a fee of one per cent of the amount of the rent deposited, which shall be assessed as court costs. 55828
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(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. 55831
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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: 55839
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55842

(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. 55843
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(2) Apply to the court for release of the rent on the grounds 55849

that the resident did not comply with the notice requirement of 55850
division (A) of section ~~3733.12~~ 4781.41 of the Revised Code, or 55851
that the resident was not current in rent payments due under the 55852
rental agreement at the time the resident initiated rent deposits 55853
with the clerk of courts under division (B)(1) of section ~~3733.12~~ 55854
4781.41 of the Revised Code; 55855

(3) Apply to the court for release of the rent on the grounds 55856
that there was no violation of any obligation imposed upon the 55857
park operator by section ~~3733.10~~ 4781.38 of the Revised Code or by 55858
the rental agreement, or by any building, housing, health, or 55859
safety code, or that the condition contained in the notice given 55860
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 55861
Code has been remedied. 55862

(B) The resident shall be named as a party to any action 55863
filed by the park operator under this section, and shall have the 55864
right to file an answer and counterclaim, as in other civil cases. 55865
A trial shall be held within sixty days of the date of filing of 55866
the park operator's complaint, unless for good cause shown the 55867
court grants a continuance. 55868

(C) If the court finds that there was no violation of any 55869
obligation imposed upon the park operator by section ~~3733.10~~ 55870
4781.38 of the Revised Code or by the rental agreement, or by any 55871
building, housing, health, or safety code, or that the condition 55872
contained in the notice given pursuant to division (A) of section 55873
~~3733.12~~ 4781.41 of the Revised Code has been remedied, or that the 55874
resident did not comply with the notice requirement of division 55875
(A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the 55876
resident was not current in rent payments at the time the resident 55877
initiated rent deposits with the clerk of court under division 55878
(B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code, the court 55879
shall order the release to the park operator of rent on deposit 55880
with the clerk, less costs. 55881

(D) If the court finds that the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised Code was the result of an act or omission of the resident, or that the resident intentionally acted in bad faith in proceeding under section ~~3733.12~~ 4781.41 of the Revised Code, the resident shall be liable for damages caused to the park operator, and for costs, together with reasonable attorneys' fees if the resident intentionally acted in bad faith.

Sec. ~~3733.123~~ 4781.44. (A) If a park operator brings an action for the release of rent deposited with a clerk of court, the court may, during the pendency of the action, upon application of the park operator, release part of the rent on deposit for payment of the periodic interest on a mortgage on the premises, the periodic principal payments on a mortgage on the premises, the insurance premiums for the premises, real estate taxes on the premises, utility services, repairs, and other customary and usual costs of operating the premises.

(B) In determining whether to release rent for the payments described in division (A) of this section, the court shall consider the amount of rent the park operator receives from other lots, the cost of operating these lots, and the costs which may be required to remedy the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised Code.

Sec. ~~3733.13~~ 4781.45. If a resident commits a material violation 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, the park operator may deliver a written notification of the violation to the resident. The notification shall contain all of the following:

(A) A description of the violation; 55912

(B) A statement that the rental agreement will terminate upon 55913
a date specified in the written notice not less than thirty days 55914
after receipt of the notice unless the resident remedies the 55915
violation; 55916

(C) A statement that the violation was material and that if a 55917
second material violation of any park or ~~public health council~~ 55918
commission rule, or any health and safety code, occurs within six 55919
months after the date of this notice, the rental agreement will 55920
terminate immediately; 55921

(D) A statement that a defense available to termination of 55922
the rental agreement for two material violations of park or ~~public~~ 55923
~~health council~~ commission rules, or of health and safety codes, is 55924
that the park rule is unreasonable, or that the park or ~~public~~ 55925
~~health council~~ commission rule, or health or safety code, is not 55926
being enforced against other manufactured home park residents, or 55927
that the two violations were not willful and not committed in bad 55928
faith. 55929

If the resident remedies the condition described in the 55930
notice, whether by repair, the payment of damages, or otherwise, 55931
the rental agreement shall not terminate. The park operator may 55932
terminate the rental agreement immediately if the resident commits 55933
a second material violation of the park or ~~public health council~~ 55934
commission rules, or of applicable state and local health and 55935
safety codes, subject to the defense that the park rule is 55936
unreasonable, that the park or ~~public health council~~ commission 55937
rule, or health or safety code, is not being enforced against 55938
other manufactured home park residents, or that the two violations 55939
were not willful and not committed in bad faith. 55940

Sec. ~~3733.14~~ 4781.46. In any action under sections ~~3733.09~~ 55941
4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, any party may 55942

recover damages for the breach of contract or the breach of any 55943
duty that is imposed by law. 55944

Sec. ~~3733.15~~ 4781.47. (A) No provision of sections ~~3733.09~~ 55945
~~4781.36~~ to ~~3733.20~~ 4781.52 of the Revised Code may be modified or 55946
waived by any oral or written agreement except as provided in 55947
division (F) of this section. 55948

(B) No warrant of attorney to confess judgment shall be 55949
recognized in any rental agreement or in any other agreement 55950
between a park operator and resident for the recovery of rent or 55951
damages to the residential premises. 55952

(C) No agreement to pay the park operator's or resident's 55953
attorney fees shall be recognized in any rental agreement for 55954
residential premises or in any other agreement between a park 55955
operator and resident. 55956

(D) No agreement by a resident to the exculpation or 55957
limitation of any liability of the park operator arising under law 55958
or to indemnify the park operator for that liability or its 55959
related costs shall be recognized in any rental agreement or in 55960
any other agreement between a park operator and resident. 55961

(E) A rental agreement, or the assignment, conveyance, trust 55962
deed, or security instrument of the park operator's interest in 55963
the rental agreement may not permit the receipt of rent free of 55964
the obligation to comply with section ~~3733.10~~ 4781.38 of the 55965
Revised Code. 55966

(F) The park operator may agree to assume responsibility for 55967
fulfilling any duty or obligation imposed on a resident by section 55968
~~3733.101~~ 4781.39 of the Revised Code. 55969

Sec. ~~3733.16~~ 4781.48. (A) If the court as a matter of law 55970
finds a rental agreement, or any clause of it, to have been 55971
unconscionable at the time it was made, it may refuse to enforce 55972

the rental agreement or it may enforce the remainder of the rental 55973
agreement without the unconscionable clause, or it may so limit 55974
the application of any unconscionable clause as to avoid any 55975
unconscionable result. 55976

(B) When it is claimed or appears to the court that the 55977
rental agreement, or any clause of it, may be unconscionable, the 55978
parties shall be afforded a reasonable opportunity to present 55979
evidence as to its setting, purpose, and effect to aid the court 55980
in making the determination. 55981

Sec. ~~3733.17~~ 4781.49. (A) No park operator of residential 55982
premises shall initiate any act, including termination of 55983
utilities or services, exclusion from the premises, or threat of 55984
any unlawful act, against a resident, or a resident whose right to 55985
possession has terminated, for the purpose of recovering 55986
possession of residential premises, other than as provided in 55987
Chapters 1923., ~~3733.~~ 4781., and 5303. of the Revised Code. 55988

(B) No park operator of residential premises shall seize the 55989
furnishings or possessions of a resident, or of a resident whose 55990
right to possession was terminated, for the purpose of recovering 55991
rent payments, other than in accordance with an order issued by a 55992
court of competent jurisdiction. 55993

(C) A park operator who violates this section is liable in a 55994
civil action for all damages caused to a resident, or to a 55995
resident whose right to possession has terminated, together with 55996
reasonable attorneys' fees. 55997

Sec. ~~3733.18~~ 4781.50. (A) Any security deposit in excess of 55998
fifty dollars or one month's periodic rent, whichever is greater, 55999
shall bear interest on the excess at the rate of five per cent per 56000
annum if the resident remains in possession of the premises for 56001
six months or more, and shall be computed and paid annually by the 56002

park operator to the resident. 56003

(B) Upon termination of the rental agreement any property or 56004
money held by the park operator as a security deposit may be 56005
applied to the payment of past due rent and to the payment of the 56006
amount of damages that the park operator has suffered by reason of 56007
the resident's noncompliance with section ~~3733.101~~ 4781.39 of the 56008
Revised Code or the rental agreement. Any deduction from the 56009
security deposit shall be itemized and identified by the park 56010
operator in a written notice delivered to the resident together 56011
with the amount due, within thirty days after termination of the 56012
rental agreement and delivery of possession. The resident shall 56013
provide the park operator in writing with a forwarding address or 56014
new address to which the written notice and amount due from the 56015
park operator may be sent. If the resident fails to provide the 56016
park operator with the forwarding or new address as required, the 56017
resident shall not be entitled to damages or attorneys' fees under 56018
division (C) of this section. 56019

(C) If the park operator fails to comply with division (B) of 56020
this section, the resident may recover the property and money due 56021
~~him~~ the resident, together with damages in an amount equal to the 56022
amount wrongfully withheld, and reasonable attorneys' fees. 56023

Sec. ~~3733.19~~ 4781.51. (A) Every written rental agreement for 56024
residential premises shall contain the name and address of the 56025
owner of the residential premises and the name and address of the 56026
owner's agent, if any. If the owner or the owner's agent is a 56027
corporation, partnership, limited partnership, association, trust, 56028
or other entity, the address shall be the principal place of 56029
business in the county in which the residential premises are 56030
situated or if there is no place of business in such county then 56031
its principal place of business in this state, and shall include 56032
the name of the person in charge thereof. 56033

(B) If the rental agreement is oral, the park operator, at 56034
the commencement of the term of occupancy, shall deliver to the 56035
resident a written notice containing the information required in 56036
division (A) of this section. 56037

(C) If the park operator fails to provide the notice of the 56038
name and address of the owner and owner's agent, if any, as 56039
required under division (A) or (B) of this section, the notices to 56040
the park operator required under division (A) of sections ~~3733.12~~ 56041
4781.41 and ~~3733.121~~ 4781.42 of the Revised Code are waived by the 56042
park operator and the operator's agent. 56043

(D) Every written rental agreement for residential premises 56044
shall contain the following notice in ten-point boldface type: 56045

"YOUR RIGHTS AS A RESIDENT AND YOUR MANUFACTURED HOME PARK 56046
OPERATOR'S RIGHTS ARE PROTECTED BY SECTIONS ~~3733.09~~ 4781.36 TO 56047
~~3733.20~~ 4781.52 OF THE REVISED CODE, WHICH REGULATE RENTAL 56048
AGREEMENTS IN MANUFACTURED HOME PARKS." 56049

If the rental agreement is oral, the park operator, at the 56050
commencement of the term of occupancy, shall deliver the notice to 56051
the resident in writing. 56052

Sec. ~~3733.20~~ 4781.52. No municipal corporation may adopt or 56053
continue in existence any ordinance and no township may adopt or 56054
continue in existence any resolution that is in conflict with 56055
sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, 56056
or that regulates those rights and obligations of parties to a 56057
rental agreement that are regulated by sections ~~3733.09~~ 4781.36 to 56058
~~3733.20~~ 4781.52 of the Revised Code. Sections ~~3733.09~~ 4781.36 to 56059
~~3733.20~~ 4781.52 of the Revised Code do not preempt any housing, 56060
building, health, or safety codes of any municipal corporation or 56061
township. 56062

Sec. 4781.54. There is hereby created in the state treasury 56063

the manufactured homes commission regulatory fund. The fund shall 56064
consist of fees collected under section 4781.121 of the Revised 56065
Code and fees paid under section 4781.28 of the Revised Code and 56066
shall be used for the purposes described in those sections. 56067

Sec. 4781.99. (A) Whoever violates division (A) of section 56068
4781.16 of the Revised Code is guilty of a minor misdemeanor on a 56069
first offense and shall be subject to a mandatory fine of one 56070
hundred dollars. On a second offense, the person is guilty of a 56071
misdemeanor of the first degree and shall be subject to a 56072
mandatory fine of one thousand dollars. 56073

(B) Whoever violates section 4781.20 of the Revised Code is 56074
guilty of a minor misdemeanor. 56075

(C) Whoever violates any of the following is guilty of a 56076
misdemeanor of the fourth degree: 56077

(1) Division (B) or (C) of section 4781.16 of the Revised 56078
Code; 56079

(2) Section 4781.22 of the Revised Code; 56080

(3) Section 4781.23 of the Revised Code; 56081

(4) Division (A) of section 4781.24 of the Revised Code; 56082

(5) Section 4781.25 of the Revised Code; 56083

(6) Division (A) of section 4781.35 of the Revised Code. 56084

Sec. 4905.01. As used in this chapter: 56085

(A) "Railroad" has the same meaning as in section 4907.02 of 56086
the Revised Code. 56087

(B) "Motor ~~transportation company~~ carrier" has the same 56088
meaning as in ~~sections 4905.03 and 4921.02~~ section 4923.01 of the 56089
Revised Code. 56090

(C) "~~Trailer~~ Motor vehicle" and "public highway" have the 56091
same meanings as in section ~~4921.02~~ 4921.01 of the Revised Code. 56092

(D) "~~Private motor carrier~~" and "~~motor vehicle~~" have the same 56093
meanings as in section ~~4923.02~~ of the Revised Code. 56094

~~(E)~~ "Ohio coal research and development costs" means all 56095
reasonable costs associated with a facility or project undertaken 56096
by a public utility for which a recommendation to allow the 56097
recovery of costs associated therewith has been made under 56098
division (B)(7) of section 1551.33 of the Revised Code, including, 56099
but not limited to, capital costs, such as costs of debt and 56100
equity; construction and operation costs; termination and 56101
retirement costs; costs of feasibility and marketing studies 56102
associated with the project; and the acquisition and delivery 56103
costs of Ohio coal used in the project, less any expenditures of 56104
grant moneys. 56105

Sec. 4905.02. (A) As used in this chapter, "public utility" 56106
includes every corporation, company, copartnership, person, or 56107
association, the lessees, trustees, or receivers of the foregoing, 56108
defined in section 4905.03 of the Revised Code, including any 56109
public utility that operates its utility not for profit, except 56110
the following: 56111

~~(A)~~(1) An electric light company that operates its utility 56112
not for profit; 56113

~~(B)~~(2) A public utility, other than a telephone company, that 56114
is owned and operated exclusively by and solely for the utility's 56115
customers, including any consumer or group of consumers 56116
purchasing, delivering, storing, or transporting, or seeking to 56117
purchase, deliver, store, or transport, natural gas exclusively by 56118
and solely for the consumer's or consumers' own intended use as 56119
the end user or end users and not for profit; 56120

~~(C)~~(3) A public utility that is owned or operated by any municipal corporation; 56121
56122

~~(D)~~(4) A railroad as defined in sections 4907.02 and 4907.03 of the Revised Code; 56123
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~~(E)~~(5) Any provider, including a telephone company, with respect to its provision of any of the following: 56125
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~~(1)~~(a) Advanced services as defined in 47 C.F.R. 51.5; 56127

~~(2)~~(b) Broadband service, however defined or classified by the federal communications commission; 56128
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~~(3)~~(c) Information service as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20); 56130
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~~(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; 56132
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~~(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: 56135
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~~(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. 56138
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~~(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. 56141
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(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. 56145
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(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 56148
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| <u>section, from compliance with any of the following:</u> | 56151 |
| <u>(a) Chapter 4923. of the Revised Code;</u> | 56152 |
| <u>(b) Hazardous-material regulation under section 4921.15 of</u> <u>the Revised Code and division (H) of section 4921.19 of the</u> <u>Revised Code, or rules adopted thereunder;</u> | 56153 56154 56155 |
| <u>(c) Rules governing unified carrier registration adopted</u> <u>under section 4921.11 of the Revised Code.</u> | 56156 56157 |
| Sec. 4905.03. As used in this chapter+ | 56158 |
| (A) Any, any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, is: | 56159 56160 56161 |
| (1)(A) A telephone company, when engaged in the business of transmitting telephonic messages to, from, through, or in this state; | 56162 56163 56164 |
| (2)(B) A <u>for-hire</u> motor transportation company <u>carrier</u> , when engaged in the business of carrying and transporting persons or property or the business of providing or furnishing such transportation service, for hire, in or by motor-propelled vehicles of any kind, including trailers, for the public in general, over any public street, road, or highway in this state <u>vehicle for compensation, except as provided when engaged in any</u> <u>of the operations in intrastate commerce described in divisions</u> <u>(B)(1) to (9) of section 4921.02 4921.01</u> of the Revised Code, <u>but</u> <u>including the carrier's agents, officers, and representatives, as</u> <u>well as employees responsible for hiring, supervising, training,</u> <u>assigning, or dispatching drivers and employees concerned with the</u> <u>installation, inspection, and maintenance of motor-vehicle</u> <u>equipment and accessories;</u> | 56165 56166 56167 56168 56169 56170 56171 56172 56173 56174 56175 56176 56177 56178 |
| (3)(C) An electric light company, when engaged in the business of supplying electricity for light, heat, or power | 56179 56180 |

purposes to consumers within this state, including supplying 56181
electric transmission service for electricity delivered to 56182
consumers in this state, but excluding a regional transmission 56183
organization approved by the federal energy regulatory commission; 56184

~~(4)~~(D) A gas company, when engaged in the business of 56185
supplying artificial gas for lighting, power, or heating purposes 56186
to consumers within this state or when engaged in the business of 56187
supplying artificial gas to gas companies or to natural gas 56188
companies within this state, but a producer engaged in supplying 56189
to one or more gas or natural gas companies, only such artificial 56190
gas as is manufactured by that producer as a by-product of some 56191
other process in which the producer is primarily engaged within 56192
this state is not thereby a gas company. All rates, rentals, 56193
tolls, schedules, charges of any kind, or agreements between any 56194
gas company and any other gas company or any natural gas company 56195
providing for the supplying of artificial gas and for compensation 56196
for the same are subject to the jurisdiction of the public 56197
utilities commission. 56198

~~(5)~~(E) A natural gas company, when engaged in the business of 56199
supplying natural gas for lighting, power, or heating purposes to 56200
consumers within this state. Notwithstanding the above, neither 56201
the delivery nor sale of Ohio-produced natural gas by a producer 56202
or gatherer under a public utilities commission-ordered exemption, 56203
adopted before, as to producers, or after, as to producers or 56204
gatherers, January 1, 1996, or the delivery or sale of 56205
Ohio-produced natural gas by a producer or gatherer of 56206
Ohio-produced natural gas, either to a lessor under an oil and gas 56207
lease of the land on which the producer's drilling unit is 56208
located, or the grantor incident to a right-of-way or easement to 56209
the producer or gatherer, shall cause the producer or gatherer to 56210
be a natural gas company for the purposes of this section. 56211

All rates, rentals, tolls, schedules, charges of any kind, or 56212

agreements between a natural gas company and other natural gas 56213
companies or gas companies providing for the supply of natural gas 56214
and for compensation for the same are subject to the jurisdiction 56215
of the public utilities commission. The commission, upon 56216
application made to it, may relieve any producer or gatherer of 56217
natural gas, defined in this section as a gas company or a natural 56218
gas company, of compliance with the obligations imposed by this 56219
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 56220
of the Revised Code, so long as the producer or gatherer is not 56221
affiliated with or under the control of a gas company or a natural 56222
gas company engaged in the transportation or distribution of 56223
natural gas, or so long as the producer or gatherer does not 56224
engage in the distribution of natural gas to consumers. 56225

Nothing in division ~~(A)(5)~~(E) of this section limits the 56226
authority of the commission to enforce sections 4905.90 to 4905.96 56227
of the Revised Code. 56228

~~(6)~~(F) A pipe-line company, when engaged in the business of 56229
transporting natural gas, oil, or coal or its derivatives through 56230
pipes or tubing, either wholly or partly within this state; 56231

~~(7)~~(G) A water-works company, when engaged in the business of 56232
supplying water through pipes or tubing, or in a similar manner, 56233
to consumers within this state; 56234

~~(8)~~(H) A heating or cooling company, when engaged in the 56235
business of supplying water, steam, or air through pipes or tubing 56236
to consumers within this state for heating or cooling purposes; 56237

~~(9)~~(I) A messenger company, when engaged in the business of 56238
supplying messengers for any purpose; 56239

~~(10)~~(J) A street railway company, when engaged in the 56240
business of operating as a common carrier, a railway, wholly or 56241
partly within this state, with one or more tracks upon, along, 56242
above, or below any public road, street, alleyway, or ground, 56243

within any municipal corporation, operated by any motive power 56244
other than steam and not a part of an interurban railroad, whether 56245
the railway is termed street, inclined-plane, elevated, or 56246
underground railway; 56247

~~(11)~~(K) A suburban railroad company, when engaged in the 56248
business of operating as a common carrier, whether wholly or 56249
partially within this state, a part of a street railway 56250
constructed or extended beyond the limits of a municipal 56251
corporation, and not a part of an interurban railroad; 56252

~~(12)~~(L) An interurban railroad company, when engaged in the 56253
business of operating a railroad, wholly or partially within this 56254
state, with one or more tracks from one municipal corporation or 56255
point in this state to another municipal corporation or point in 56256
this state, whether constructed upon the public highways or upon 56257
private rights-of-way, outside of municipal corporations, using 56258
electricity or other motive power than steam power for the 56259
transportation of passengers, packages, express matter, United 56260
States mail, baggage, and freight. Such an interurban railroad 56261
company is included in the term "railroad" as used in section 56262
4907.02 of the Revised Code. 56263

~~(13)~~(M) A sewage disposal system company, when engaged in the 56264
business of sewage disposal services through pipes or tubing, and 56265
treatment works, or in a similar manner, within this state. 56266

~~(B) "Motor propelled vehicle" means any automobile,~~ 56267
~~automobile truck, motor bus, or any other self-propelled vehicle~~ 56268
~~not operated or driven upon fixed rails or tracks.~~ 56269

Sec. 4905.05. The jurisdiction, supervision, powers, and 56270
duties of the public utilities commission extend to every public 56271
utility and railroad, the plant or property of which lies wholly 56272
within this state and when the property of a public utility or 56273
railroad lies partly within and partly without this state to that 56274

part of such plant or property which lies within this state; to 56275
the persons or companies owning, leasing, or operating such public 56276
utilities and railroads; to the records and accounts of the 56277
business thereof done within this state; and to the records and 56278
accounts of any companies which are part of an electric utility 56279
holding company system exempt under section 3(a)(1) or (2) of the 56280
"Public Utility Holding Company Act of 1935," 49 Stat. 803, 15 56281
U.S.C. 79c, and the rules and regulations promulgated thereunder, 56282
insofar as such records and accounts may in any way affect or 56283
relate to the costs associated with the provision of electric 56284
utility service by any public utility operating in this state and 56285
part of such holding company system. 56286

Nothing in this section, or section 4905.06 or 4905.46 of the 56287
Revised Code pertaining to regulation of holding companies, grants 56288
the public utilities commission authority to regulate a holding 56289
company or its subsidiaries which are organized under the laws of 56290
another state, render no public utility service in the state of 56291
Ohio, and are regulated as a public utility by the public 56292
utilities commission of another state or primarily by a federal 56293
regulatory commission, nor do these grants of authority apply to 56294
public utilities that are excepted from the definition of "public 56295
utility" under divisions (A)(1) to ~~(C)~~(3) of section 4905.02 of 56296
the Revised Code. 56297

Sec. 4905.06. The public utilities commission has general 56298
supervision over all public utilities within its jurisdiction as 56299
defined in section 4905.05 of the Revised Code, and may examine 56300
such public utilities and keep informed as to their general 56301
condition, capitalization, and franchises, and as to the manner in 56302
which their properties are leased, operated, managed, and 56303
conducted with respect to the adequacy or accommodation afforded 56304
by their service, the safety and security of the public and their 56305
employees, and their compliance with all laws, orders of the 56306

commission, franchises, and charter requirements. The commission 56307
has general supervision over all other companies referred to in 56308
section 4905.05 of the Revised Code to the extent of its 56309
jurisdiction as defined in that section, and may examine such 56310
companies and keep informed as to their general condition and 56311
capitalization, and as to the manner in which their properties are 56312
leased, operated, managed, and conducted with respect to the 56313
adequacy or accommodation afforded by their service, and their 56314
compliance with all laws and orders of the commission, insofar as 56315
any of such matters may relate to the costs associated with the 56316
provision of electric utility service by public utilities in this 56317
state which are affiliated or associated with such companies. The 56318
commission, through the public utilities commissioners or 56319
inspectors or employees of the commission authorized by it, may 56320
enter in or upon, for purposes of inspection, any property, 56321
equipment, building, plant, factory, office, apparatus, machinery, 56322
device, and lines of any public utility. The power to inspect 56323
includes the power to prescribe any rule or order that the 56324
commission finds necessary for protection of the public safety. In 56325
order to assist the commission in the performance of its duties 56326
under this chapter, authorized employees of the motor carrier 56327
enforcement unit, created under section 5503.34 of the Revised 56328
Code in the division of state highway patrol, of the department of 56329
public safety may enter in or upon, for inspection purposes, any 56330
motor vehicle of any ~~motor transportation company or private~~ motor 56331
carrier ~~as defined in section 4923.02 of the Revised Code.~~ 56332

In order to inspect motor vehicles owned or operated by a 56333
motor ~~transportation company~~ carrier engaged in the transportation 56334
of persons, authorized employees of the motor carrier enforcement 56335
unit, division of state highway patrol, of the department of 56336
public safety may enter in or upon any property of any motor 56337
~~transportation company, as defined in section 4921.02 of the~~ 56338
~~Revised Code,~~ carrier engaged in the intrastate transportation of 56339

persons. 56340

Sec. 4905.402. (A) As used in this section: 56341

(1) "Control" means the possession of the power to direct the 56342
management and policies of a domestic telephone company or a 56343
holding company of a domestic telephone company, or the management 56344
and policies of a domestic electric utility or a holding company 56345
of a domestic electric utility, through the ownership of voting 56346
securities, by contract, or otherwise, but does not include the 56347
power that results from holding an official position or the 56348
possession of corporate office with the domestic company or 56349
utility or the holding company. Control is presumed to exist if 56350
any person, directly or indirectly, owns, controls, holds the 56351
power to vote, or holds with the power to vote proxies that 56352
constitute, twenty per cent or more of the total voting power of 56353
the domestic company or utility or the holding company. 56354

(2) "Electric utility" has the same meaning as in section 56355
4928.07 of the Revised Code. 56356

(3) "Holding company" excludes any securities broker 56357
performing the usual and customary broker's function. 56358

(4) "Telephone company" means any company described in 56359
division (A)~~(1)~~ of section 4905.03 of the Revised Code that is a 56360
public utility under section 4905.02 of the Revised Code and 56361
provides basic local exchange service, as defined in section 56362
4927.01 of the Revised Code. 56363

(B) No person shall acquire control, directly or indirectly, 56364
of a domestic telephone company or a holding company controlling a 56365
domestic telephone company or of a domestic electric utility or a 56366
holding company controlling a domestic electric utility unless 56367
that person obtains the prior approval of the public utilities 56368
commission under this section. To obtain approval the person shall 56369

file an application with the commission demonstrating that the 56370
acquisition will promote public convenience and result in the 56371
provision of adequate service for a reasonable rate, rental, toll, 56372
or charge. The application shall contain such information as the 56373
commission may require. If the commission considers a hearing 56374
necessary, it may fix a time and place for hearing. If, after 56375
review of the application and after any necessary hearing, the 56376
commission is satisfied that approval of the application will 56377
promote public convenience and result in the provision of adequate 56378
service for a reasonable rate, rental, toll, or charge, the 56379
commission shall approve the application and make such order as it 56380
considers proper. If the commission fails to issue an order within 56381
thirty days of the filing of the application, or within twenty 56382
days of the conclusion of a hearing, if one is held, the 56383
application shall be deemed approved by operation of law. 56384

(C) No domestic telephone company shall merge with another 56385
domestic telephone company unless the merging companies obtain the 56386
prior approval of the commission. An application seeking such 56387
approval shall be filed, processed, and decided in the manner 56388
provided for an application under division (B) of this section. 56389

(D) The commission shall adopt such rules as it finds 56390
necessary to carry out the provisions of this section. 56391

(E) If it appears to the commission or to any person that may 56392
be adversely affected that any person is engaged in or about to 56393
engage in any acts or practices that would violate division (B) or 56394
(C) of this section or any provision of a rule adopted under this 56395
section, the attorney general, when directed to do so by the 56396
commission, or the person claiming to be adversely affected may 56397
bring an action in any court of common pleas that has jurisdiction 56398
and venue to enjoin such acts or practices and enforce compliance. 56399
Upon a proper showing, the court shall grant, without bond, a 56400
restraining order or temporary or permanent injunction. 56401

(F) The courts of this state have jurisdiction over every 56402
person not a resident of or domiciled or authorized to do business 56403
in this state that files, or is prohibited from acting without 56404
first filing, an application under division (B) or (C) of this 56405
section, and over all actions involving such person arising out of 56406
violations of any provision of this section or of a rule adopted 56407
under this section. The secretary of state shall be the agent for 56408
service of process for any such person in any action, suit, or 56409
proceeding arising out of such violations. Copies of all such 56410
lawful process shall be served upon the secretary of state and 56411
transmitted by certified mail, with return receipt requested, by 56412
the secretary of state to such person at the person's last known 56413
address. 56414

Sec. 4905.54. Every public utility or railroad and every 56415
officer of a public utility or railroad shall comply with every 56416
order, direction, and requirement of the public utilities 56417
commission made under authority of this chapter and Chapters 56418
4901., 4903., 4907., and 4909., ~~4921., and 4923.~~ of the Revised 56419
Code, so long as they remain in force. Except as otherwise 56420
specifically provided in ~~sections 4905.83,~~ section 4905.95,
~~4919.99, 4921.99, and 4923.99~~ of the Revised Code, the public 56422
utilities commission may assess a forfeiture of not more than ten 56423
thousand dollars for each violation or failure against a public 56424
utility or railroad that violates a provision of those chapters or 56425
that after due notice fails to comply with an order, direction, or 56426
requirement of the commission that was officially promulgated. 56427
Each day's continuance of the violation or failure is a separate 56428
offense. All forfeitures collected under this section shall be 56429
credited to the general revenue fund. 56430

Sec. 4905.57. Except as otherwise specifically provided in 56431
sections ~~4905.83,~~ 4905.96, ~~4919.99, 4921.99,~~ and 4923.99 of the 56432

Revised Code, actions to recover forfeitures provided for in this 56433
chapter and Chapters 4901., 4903., 4907., 4909., ~~4921.,~~ and 4923. 56434
of the Revised Code shall be prosecuted in the name of the state 56435
and may be brought in the court of common pleas of any county in 56436
which the public utility ~~or,~~ railroad, or motor carrier is 56437
located. Such actions shall be commenced and prosecuted by the 56438
attorney general when ~~he~~ the attorney general is directed to do so 56439
by the public utilities commission. Moneys recovered by such 56440
actions shall be deposited in the state treasury to the credit of 56441
the general revenue fund. 56442

Sec. 4905.58. All prosecutions against a railroad or an 56443
officer, agent, or employee thereof, under Chapters 4901., 4903., 56444
4905., 4907., and 4909., ~~4921., and 4923.~~ and other sections of 56445
the Revised Code for penalties involving imprisonment shall be by 56446
indictment. 56447

Sec. 4905.80. The policy of this state is to: 56448

(A) Regulate transportation by motor carriers so as to 56449
recognize and preserve the inherent advantages of, and foster safe 56450
conditions in, that transportation and among those carriers in the 56451
public interest; 56452

(B) Promote safe and secure service by motor carriers, 56453
without unjust discriminations, undue preferences or advantages, 56454
and unfair or destructive competitive practices; 56455

(C) Improve the relations between, and coordinate 56456
transportation by and regulation of, motor carriers and other 56457
carriers; 56458

(D) Develop and preserve a highway transportation system 56459
properly adapted to the needs of commerce and the state; 56460

(E) Cooperate with the federal government and the several 56461
states, and the authorized officials thereof, and with any 56462

organization of motor carriers in the administration and 56463
enforcement of this chapter and Chapters 4901., 4903., 4907., 56464
4909., 4921., and 4923. of the Revised Code. 56465

Sec. 4905.81. The public utilities commission shall: 56466

(A) Supervise and regulate each motor carrier; 56467

(B) Regulate the safety of operation of each motor carrier; 56468

(C) Adopt reasonable safety rules applicable to the highway 56469
transportation of persons or property in interstate and intrastate 56470
commerce by motor carriers; 56471

(D) Adopt safety rules applicable to the transportation and 56472
offering for transportation of hazardous materials in interstate 56473
and intrastate commerce by motor carriers. The rules shall not be 56474
incompatible with the requirements of the United States department 56475
of transportation. 56476

(E) Require the filing of reports and other data by motor 56477
carriers; 56478

(F) Adopt reasonable rules for the administration and 56479
enforcement of this chapter and Chapters 4901., 4903., 4907., 56480
4909., 4921., and 4923. of the Revised Code applying to each motor 56481
carrier in this state; 56482

(G) Supervise and regulate motor carriers in all other 56483
matters affecting the relationship between those carriers and the 56484
public to the exclusion of all local authorities, except as 56485
provided in this section. The commission, in the exercise of the 56486
jurisdiction conferred upon it by this chapter and Chapters 4901., 56487
4903., 4907., 4909., 4921., and 4923. of the Revised Code, may 56488
adopt rules affecting motor carriers, notwithstanding the 56489
provisions of any ordinance, resolution, license, or permit 56490
enacted, adopted, or granted by any township, municipal 56491
corporation, municipal corporation and county, or county. In case 56492

of conflict between any such ordinance, resolution, license, or 56493
permit, the order or rule of the commission shall prevail. Local 56494
subdivisions may adopt reasonable local police rules within their 56495
respective boundaries not inconsistent with those chapters and 56496
rules adopted under them. 56497

The commission has jurisdiction to receive, hear, and 56498
determine as a question of fact, upon complaint of any party or 56499
upon its own motion, and upon not less than fifteen days' notice 56500
of the time and place of the hearing and the matter to be heard, 56501
whether any corporation, company, association, joint-stock 56502
association, person, firm, or copartnership, or their lessees, 56503
legal or personal representatives, trustees, or receivers or 56504
trustees appointed by any court, is engaged as a motor carrier. 56505
The finding of the commission on such a question is a final order 56506
that may be reviewed as provided in section 4923.15 of the Revised 56507
Code. 56508

Sec. 4905.84. (A) As used in this section: 56509

(1) "Telecommunications relay service" means intrastate 56510
transmission services that provide the ability for an individual 56511
who has a hearing or speech impairment to engage in a 56512
communication by wire or radio with a hearing individual in a 56513
manner that is functionally equivalent to the ability of an 56514
individual who does not have a hearing or speech impairment to 56515
communicate using voice communication services by wire or radio. 56516
"Telecommunications relay service" includes services that enable 56517
two-way communication between an individual who uses a 56518
telecommunications device for the deaf or other nonvoice terminal 56519
device and an individual who does not use such a device. 56520

(2) "TRS provider" means an entity selected by the public 56521
utilities commission as the provider of telecommunications relay 56522
service for this state as part of the commission's intrastate 56523

telecommunications relay service program certified pursuant to 56524
federal law. 56525

(B) For the sole purpose of funding telecommunications relay 56526
service, the commission shall, not earlier than January 1, 2009, 56527
impose on and collect from each service provider that is required 56528
under federal law to provide its customers access to 56529
telecommunications relay service an annual assessment to pay for 56530
costs incurred by the TRS provider for providing such service in 56531
Ohio. The commission shall determine the appropriate service 56532
providers to be assessed the telecommunications relay service 56533
costs, including telephone companies as defined in division (A)~~(1)~~ 56534
of section 4905.03 of the Revised Code, commercial mobile radio 56535
service providers, and providers of advanced services or internet 56536
protocol-enabled services that are competitive with or 56537
functionally equivalent to basic local exchange service as defined 56538
in section 4927.01 of the Revised Code. 56539

(C) The assessment shall be allocated proportionately among 56540
the appropriate service providers using a competitively neutral 56541
formula established by the commission based on the number of 56542
retail intrastate customer access lines or their equivalent. The 56543
commission shall annually reconcile the funds collected with the 56544
actual costs of providing telecommunications relay service when it 56545
issues the assessment and shall either proportionately charge the 56546
service providers for any amounts not sufficient to cover the 56547
actual costs or proportionately credit amounts collected in excess 56548
of the actual costs. The total amount assessed from all service 56549
providers shall not exceed the total telecommunications relay 56550
service costs. 56551

Each service provider that pays the assessment shall be 56552
permitted to recover the cost of the assessment. The method of 56553
recovery may include, but is not limited to, a customer billing 56554
surcharge. 56555

The commission shall deposit the money collected in the 56556
telecommunications relay service fund, which is hereby created in 56557
the state treasury, and shall use the money in that fund solely to 56558
compensate the TRS provider. 56559

(D) The commission shall take such measures as it considers 56560
necessary to protect the confidentiality of information provided 56561
to the commission pursuant to this section by service providers 56562
required to pay the assessment. 56563

(E) The commission may assess a forfeiture of not more than 56564
one thousand dollars on any service provider failing to comply 56565
with this section. Each day's continuance of such failure is a 56566
separate offense. The forfeiture shall be recovered in accordance 56567
with sections 4905.55 to 4905.60 of the Revised Code. 56568

(F) The jurisdiction and authority granted to the commission 56569
by this section is limited to the administration and enforcement 56570
of this section. The commission may adopt such rules as it finds 56571
necessary to carry out this section. The commission shall adopt 56572
rules under section 111.15 of the Revised Code to establish the 56573
assessment amounts and procedures. 56574

Sec. 4905.90. As used in sections 4905.90 to 4905.96 of the 56575
Revised Code: 56576

(A) "Contiguous property" includes, but is not limited to, a 56577
manufactured home park as defined in section ~~3733.01~~ 4781.01 of 56578
the Revised Code; a public or publicly subsidized housing project; 56579
an apartment complex; a condominium complex; a college or 56580
university; an office complex; a shopping center; a hotel; an 56581
industrial park; and a race track. 56582

(B) "Gas" means natural gas, flammable gas, or gas which is 56583
toxic or corrosive. 56584

(C) "Gathering lines" and the "gathering of gas" have the 56585

same meaning as in the Natural Gas Pipeline Safety Act and the 56586
rules adopted by the United States department of transportation 56587
pursuant to the Natural Gas Pipeline Safety Act, including 49 56588
C.F.R. part 192, as amended. 56589

(D) "Intrastate pipe-line transportation" has the same 56590
meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as 56591
amended, but excludes the gathering of gas exempted by the Natural 56592
Gas Pipeline Safety Act. 56593

(E) "Master-meter system" means a pipe-line system that 56594
distributes gas within a contiguous property for which the system 56595
operator purchases gas for resale to consumers, including tenants. 56596
Such pipe-line system supplies consumers who purchase the gas 56597
directly through a meter, or by paying rent, or by other means. 56598
The term includes a master-meter system as defined in 49 C.F.R. 56599
191.3, as amended. The term excludes a pipeline within a 56600
manufactured home, mobile home, or a building. 56601

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas 56602
Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 56603
et seq., as amended. 56604

(G) "Operator" means any of the following: 56605

(1) A gas company or natural gas company as defined in 56606
section 4905.03 of the Revised Code, except that division 56607
~~(A)(5)(E)~~ of that section does not authorize the public utilities 56608
commission to relieve any producer of gas, as a gas company or 56609
natural gas company, of compliance with sections 4905.90 to 56610
4905.96 of the Revised Code or the pipe-line safety code created 56611
under section 4905.91 of the Revised Code; 56612

(2) A pipe-line company, as defined in section 4905.03 of the 56613
Revised Code, when engaged in the business of transporting gas by 56614
pipeline; 56615

(3) A public utility that is excepted from the definition of 56616

"public utility" under division ~~(B)~~(A)(2) or ~~(C)~~(3) of section 56617
4905.02 of the Revised Code, when engaged in supplying or 56618
transporting gas by pipeline within this state; 56619

(4) Any person that owns, operates, manages, controls, or 56620
leases any of the following: 56621

(a) Intrastate pipe-line transportation facilities within 56622
this state; 56623

(b) Gas gathering lines within this state which are not 56624
exempted by the Natural Gas Pipeline Safety Act; 56625

(c) A master-meter system within this state. 56626

"Operator" does not include an ultimate consumer who owns a 56627
service line, as defined in 49 C.F.R. 192.3, as amended, on the 56628
real property of that ultimate consumer. 56629

(H) "Operator of a master-meter system" means a person 56630
described under division ~~(F)~~(G)(4)(c) of this section. An operator 56631
of a master-meter system is not a public utility under section 56632
4905.02 or a gas or natural gas company under section 4905.03 of 56633
the Revised Code. 56634

(I) "Person" means: 56635

(1) In addition to those defined in division (C) of section 56636
1.59 of the Revised Code, a joint venture or a municipal 56637
corporation; 56638

(2) Any trustee, receiver, assignee, or personal 56639
representative of persons defined in division ~~(H)~~(I)(1) of this 56640
section. 56641

(J) "Safety audit" means the public utilities commission's 56642
audit of the premises, pipe-line facilities, and the records, 56643
maps, and other relevant documents of a master-meter system to 56644
determine the operator's compliance with sections 4905.90 to 56645
4905.96 of the Revised Code and the pipe-line safety code. 56646

(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.

(L) "Safety-related condition" means any safety-related condition defined in 49 C.F.R. 191.23, as amended.

(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:

- (1) Residential sales;
- (2) Commercial and industrial sales;
- (3) Other sales to public authorities;
- (4) Interdepartmental sales;
- (5) Sales for resale;
- (6) Transportation of gas.

Sec. 4907.01. As used in sections 4907.01 to 4907.63 of the Revised Code:

(A) "Public utility" has the same meaning as in section 4905.02 of the Revised Code.

(B) "Telephone company," "street railway company," and "interurban railroad company" have the same meanings as in section 4905.03 of the Revised Code.

(C) "Railroad" has the same meaning as in section 4907.02 of the Revised Code.

(D) "Public highway" has the same meaning as in ~~sections 4905.03 and 4921.02~~ section 4921.01 of the Revised Code.

Sec. 4907.02. As used in Chapters 4901., 4903., 4905., 4907., 56675
4909., ~~4921., 4923.,~~ and 4959. of the Revised Code, "railroad" 56676
includes any corporation, company, individual, or association of 56677
individuals, or its lessees, trustees, or receivers appointed by a 56678
court, which owns, operates, manages, or controls a railroad or 56679
part of a railroad as a common carrier in this state, or which 56680
owns, operates, manages, or controls any cars or other equipment 56681
used on such a railroad, or which owns, operates, manages, or 56682
controls any bridges, terminals, union depots, sidetracks, docks, 56683
wharves, or storage elevators used in connection with such a 56684
railroad, whether owned by such railroad or otherwise, and means 56685
and includes express companies, water transportation companies, 56686
freight-line companies, sleeping car companies, and interurban 56687
railroad companies, and all persons and associations of persons, 56688
whether incorporated or not, operating such agencies for public 56689
use in the conveyance of persons or property within this state. 56690
All duties required of, and penalties imposed upon, a railroad or 56691
an officer or agent thereof insofar as they are applicable, are 56692
required and imposed upon express companies, water transportation 56693
companies, and interurban railroad companies, and upon their 56694
officers and agents. 56695

The public utilities commission has the power of supervision 56696
and control of express companies, water transportation companies, 56697
and interurban railroad companies to the same extent as railroads. 56698

Sec. 4907.04. Chapters 4901., 4903., 4905., 4907., and 4909. 56699
~~4921., 4923., and 4925.~~ of the Revised Code do not apply to street 56700
and electric railways engaged solely in the transportation of 56701
passengers within the limits of cities, or to other private 56702
railroads not doing business as common carriers. 56703

Sec. 4907.08. The public utilities commission shall inquire 56704

into any neglect or violation of the laws of this state by a 56705
railroad doing business in this state, by its officers, agents, or 56706
employees, or by any person operating a railroad. The commission 56707
shall enforce Chapters 4901., 4903., 4905., 4907., 4909., ~~4921.,~~ 56708
~~4923.,~~ and 4959. of the Revised Code, as well as all other laws 56709
relating to railroads, and report violations thereof to the 56710
attorney general. 56711

If, upon complaint or otherwise, the commission has reason to 56712
believe that a railroad or any officer, agent, or employee of a 56713
railroad has violated or is violating any law of this state, or if 56714
it has reason to believe that differences have arisen between 56715
citizens of the state and any railroad operating as a common 56716
carrier within this state, it shall examine into the matter. 56717

Sec. 4907.19. The public utilities commission shall cause 56718
blank forms to be prepared suitable for the purposes designated in 56719
Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and~~ 56720
~~4925.~~ of the Revised Code which shall conform as nearly as 56721
practicable to the forms prescribed by the interstate commerce 56722
commission, and, when necessary, furnish such blank forms to each 56723
railroad. 56724

Sec. 4907.28. No railroad shall charge, demand, collect, or 56725
receive a greater or less compensation for the transportation of 56726
passengers or property, or for any service in connection 56727
therewith, than is specified in the printed schedules referred to 56728
in sections 4907.25 to 4907.27, ~~inclusive,~~ of the Revised Code, 56729
including schedules of joint rates, as being then in force. The 56730
rates, fares, and charges named in such schedules shall be the 56731
lawful rates, fares, and charges until they are changed as 56732
provided in Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921.,~~ 56733
~~4923., and 4925.~~ of the Revised Code. 56734

Sec. 4907.35. If a railroad, or an agent or officer of a 56735
railroad, by special rate, rebate, drawback, or by means of false 56736
billing, false classification, false weighing, or other device, 56737
charges, demands, collects, or receives, either directly or 56738
indirectly, from any person, firm, or corporation, a greater or 56739
less compensation for service rendered or to be rendered by such 56740
railroad for the transportation of persons or property or any 56741
service in connection therewith, than that prescribed in the 56742
published tariffs then in force, or established as provided in 56743
Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and~~ 56744
~~4925.~~ of the Revised Code, or a greater or less compensation than 56745
it charges, demands, collects, or receives from any other person, 56746
firm, or corporation for a like and contemporaneous service in the 56747
transportation of a like kind of traffic, under substantially 56748
similar circumstances and conditions, the railroad is guilty of 56749
unjust discrimination, which is hereby prohibited. Upon conviction 56750
of unjust discrimination, such railroad shall forfeit and pay into 56751
the state treasury not less than one hundred nor more than five 56752
thousand dollars for each offense. 56753

No agent or officer of a railroad shall violate this section. 56754

Sec. 4907.37. No common carrier subject to Chapters 4901., 56755
4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the 56756
Revised Code shall make or give undue or unreasonable preference 56757
or advantage to a particular person, company, firm, corporation, 56758
or locality, or to any particular description of traffic, or 56759
subject any particular person, company, firm, corporation, or 56760
locality, or any particular description of traffic, to any undue 56761
or unreasonable prejudice or disadvantage in any respect. 56762

Sec. 4907.43. When the tracks of a railroad and the tracks of 56763
an interurban or suburban railway cross, connect, or intersect, 56764

and such tracks are of the same gauge, the companies owning such 56765
railroads may connect such tracks so as to admit the passage of 56766
cars from one to the other with facility. 56767

If any such railroads fail to make such connection, upon 56768
complaint of any party authorized by Chapters 4901., 4903., 4905., 56769
4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code to 56770
file complaint, the public utilities commission shall proceed to 56771
hear and determine the same in a manner provided for making 56772
investigations upon complaint. 56773

If upon such hearing the commission finds that it is 56774
practicable and reasonably necessary to ~~accomodate~~ accommodate the 56775
public, to connect such tracks and that when so connected it will 56776
be practicable to transport cars over such railroad without 56777
endangering the equipment, tracks, or appliances of either 56778
company, the commission shall make an order requiring such 56779
railroads to make connection. Such order shall describe the terms 56780
and conditions and shall apportion the cost of making such 56781
connection between the railroads. 56782

When such connection is made, the railroads parties to it, 56783
according to their respective powers, shall afford all reasonable 56784
and proper facilities for the interchange of traffic between their 56785
respective lines for forwarding and delivering passengers and 56786
property, and without unreasonable delay or discrimination shall 56787
transfer, switch, and deliver freight or passenger cars destine to 56788
a point on its own or connecting lines. Precedence may be given to 56789
livestock and perishable freight over other freight. Whenever a 56790
derailing device is required at the intersection of any railroads 56791
mentioned in this section, it shall be installed, maintained, and 56792
operated as required by the commission, which may prescribe the 56793
necessary rules and regulations for such operation, and designate 56794
the companies that shall be responsible for the operation of such 56795
derailing device. 56796

Sec. 4907.49. When two or more railroads cross a public highway or street at a dangerous crossing, the expenses incurred in the erection and maintenance of gates, bells, or other devices, and of necessary gatekeepers or ~~flagmen~~ flaggers, and apportioned by the public utilities commission as railroad expense, shall be shared equally by the railroads.

Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., and 4923.~~ of the Revised Code do not prevent the use of automatic bells or other mechanical devices by a railroad at a public crossing not declared dangerous by the public utilities commission, nor do they prevent state, county, township, or municipal officials from entering into an agreement with a railroad to pay all or part of the expense of erecting a warning device. Any funds levied and made available for highways or street purposes may be used to pay the public share of the cost under such an agreement. If a gate is erected or a ~~flagman~~ flagger is stationed and maintained by a railroad, either alone or pursuant to such an agreement, the gate or ~~flagman~~ flagger shall not be abandoned nor an automatic bell or other mechanical device substituted for the gate or ~~flagman~~ flagger, unless the commission consents to the abandonment or substitution.

Sec. 4907.57. All claims, charges, or demands against a railroad for loss of or damage to property occurring while in the custody of such railroad and unreasonable delay in transportation and delivery, for overcharges upon a shipment, or for any other service in violation of Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code, if not paid within sixty days from the date of the filing thereof with such railroad, may be submitted to the public utilities commission by a formal complaint. Such complaint shall be made upon blank forms which the commission shall provide upon demand of the claimant.

Such complaint shall be verified as petitions in civil 56828
actions and may be accompanied by the sworn statements of any 56829
witnesses who have knowledge of any fact material to the inquiry. 56830
Upon the filing of such complaint the commission shall forthwith 56831
cite the railroad to answer the complaint, and the citation shall 56832
be accompanied with a brief statement of the claim. The answer of 56833
the railroad shall be filed within three weeks from the service of 56834
the citation and shall be verified as answers in civil cases, and 56835
may be accompanied with the affidavits of any witnesses having 56836
knowledge of facts material to the inquiry. 56837

The burden of proof shall be upon the railroad to show that 56838
loss or damage to property was not due to its negligence. The 56839
railroad to which property is delivered for shipment shall prima 56840
facie be liable for loss or damage occurring to such property in 56841
transit notwithstanding such property may be delivered to other 56842
railroads before reaching its destination. The claim referred to 56843
in this section for loss of or damage to property may be made to 56844
any carrier over whose lines the lost or damaged property was 56845
consigned, and such claimant may at ~~his~~ the claimant's option join 56846
all of such railroads as parties defendant in ~~his~~ the complaint 56847
before said commission. The railroad shall furnish the claimant 56848
with a copy of its answer and affidavits, and within two weeks 56849
from the filing of such answers the claimant may file ~~his~~ a reply, 56850
with affidavits in support thereof, verified as replies in civil 56851
cases. At the expiration of said period of two weeks the 56852
commission shall proceed summarily to examine the complaint, 56853
answer, reply, and affidavits, and shall determine the existence 56854
and validity of the claim presented. If the commission finds in 56855
favor of the claimant it shall certify its findings to the clerk 56856
of the court of common pleas of the county in which the claimant 56857
resides or where the railroad or any of its offices is maintained. 56858

Sec. 4907.59. Upon request of the public utilities 56859

commission, the attorney general or the prosecuting attorney of 56860
the proper county shall aid in an investigation, prosecution, 56861
hearing, or trial had under Chapters 4901., 4903., 4905., 4907., 56862
and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code, and shall 56863
institute and prosecute necessary actions or proceedings for the 56864
enforcement of such chapters and of other laws of this state 56865
relating to railroads, and for the punishment of all violations of 56866
such chapters and such other laws. 56867

Sec. 4907.60. If a railroad fails to perform a duty enjoined 56868
upon it by Chapter 4901., 4903., 4905., 4907., 4909., ~~4921.,~~ 56869
~~4923.,~~ or 4959. of the Revised Code, or does any act prohibited by 56870
any of those chapters, for which failure or act no penalty or 56871
forfeiture has been provided by law, or fails to obey a lawful 56872
requirement or order made by the public utilities commission or 56873
order of any court upon application of the commission, the 56874
railroad, except as otherwise specifically provided in ~~sections~~ 56875
~~4905.83,~~ section 4905.95, ~~4919.99, 4921.99, and 4923.99~~ of the 56876
Revised Code, shall forfeit into the state treasury not less than 56877
one hundred nor more than ten thousand dollars for each violation 56878
or failure. In construing and enforcing this section, the act, 56879
omission, or failure of any officer, agent, or other person acting 56880
for or employed by a railroad, while acting within the scope of 56881
the officer's, agent's, or other person's employment, is the act, 56882
omission, or failure of the railroad. 56883

Sec. 4907.61. Except as otherwise specifically provided in 56884
sections ~~4905.83,~~ 4905.96, ~~4919.99, 4921.99,~~ and 4923.99 of the 56885
Revised Code, when the attorney general prosecutes an action for 56886
the recovery of a forfeiture provided for in Chapter 4901., 4903., 56887
4905., 4907., 4909., 4921., 4923., or 4959. of the Revised Code, 56888
the attorney general may bring the action in the court of common 56889
pleas of Franklin county or of any county having jurisdiction of 56890

the defendant. 56891

Sec. 4907.62. If a railroad does, causes, or permits anything 56892
prohibited by Chapters 4901., 4903., 4905., 4907., and 4909. 56893
~~4921., 4923., and 4925.~~ of the Revised Code to be done, or omits 56894
doing anything required to be done by such chapters, such railroad 56895
is liable to the person, firm, or corporation injured thereby in 56896
treble the amount of damages sustained in consequence of such 56897
violation or omission. A recovery provided by this section shall 56898
not affect a recovery by the state of the penalty prescribed for 56899
such violation. 56900

Sec. 4909.01. As used in this chapter: 56901

(A) "Public utility" has the same meaning as in section 56902
4905.02 of the Revised Code. 56903

(B) "Electric light company," "gas company," "natural gas 56904
company," "pipeline company," "water-works company," "sewage 56905
disposal system company," and "street railway company" have the 56906
same meanings as in section 4905.03 of the Revised Code. 56907

(C) "Railroad" has the same meaning as in section 4907.02 of 56908
the Revised Code. 56909

(D) "~~Motor transportation company~~ For-hire motor carrier" has 56910
the same meaning as in ~~sections 4905.03 and 4921.02~~ section 56911
4921.01 of the Revised Code. 56912

Sec. 4909.02. All regulations, practices, and service of 56913
railroad companies prescribed by the public utilities commission 56914
shall be in force and be prima-facie reasonable, unless suspended 56915
or found otherwise in an action brought for that purpose pursuant 56916
to Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., and~~ 56917
~~4923.~~ of the Revised Code, or until changed or modified by the 56918
commission. 56919

Sec. 4909.03. All rates, fares, charges, classifications, and joint rates of railroad companies fixed by the public utilities commission shall be in force and be prima-facie lawful for two years from the day they take effect, or until changed or modified by the commission or by an order of a competent court in an action under Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., and 4923.~~ of the Revised Code.

Sec. 4909.17. No rate, joint rate, toll, classification, charge, or rental, no change in any rate, joint rate, toll, classification, charge, or rental, and no regulation or practice affecting any rate, joint rate, toll, classification, charge, or rental of a public utility shall become effective until the public utilities commission, by order, determines it to be just and reasonable, except as provided in this section and sections 4909.18, 4909.19, and 4909.191 of the Revised Code. Such sections do not apply to any rate, joint rate, toll, classification, charge, or rental, or any regulation or practice affecting the same, of railroads, street and electric railways, for-hire motor ~~transportation companies~~ carriers, and pipe line companies.

Sec. 4909.22. When passengers or property are transported over two or more connecting railroads between points in this state, and the railroad companies have made joint rates for the transportation of such passengers or property, such rates and all charges in connection therewith shall be just and reasonable. Every unjust and unreasonable charge is prohibited. A less charge by each of such railroads for its proportion of such joint rates than is made locally between the same points on their respective lines is not for that reason a violation of Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code and does not render such railroads liable to any of the

penalties in such chapters. 56950

Sec. 4909.24. Upon complaint of a person, firm, corporation, 56951
or association, of a mercantile, agricultural, or manufacturing 56952
society, or of a body politic or municipal organization, that any 56953
of the rates, fares, charges, or classifications, or any joint 56954
rates are in any respect unreasonable or unjustly discriminatory, 56955
or that any regulation or practice, affecting the transportation 56956
of persons or property, or any service in connection therewith, 56957
are in any respect unreasonable or unjustly discriminatory, or 56958
that any service is inadequate, the public utilities commission 56959
may notify the railroad complained of that complaint has been 56960
made, and ten days after such notice proceed to investigate such 56961
charges as provided in Chapters 4901., 4903., 4905., 4907., and 56962
4909., ~~4921., 4923., and 4925.~~ of the Revised Code. Before making 56963
such investigation, the commission shall give the railroad and the 56964
complainants ten days' notice of the time and place such matters 56965
will be considered and determined, and such parties are entitled 56966
to be heard and to have process to enforce the attendance of 56967
witnesses. 56968

A railroad may make complaint with like effect as though made 56969
by any person, firm, corporation, or association, ~~mercantile~~ 56970
mercantile, agricultural, or manufacturing society, body politic, 56971
or municipal organization. 56972

Sec. 4909.28. If, upon an investigation under Chapters 4901., 56973
4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the 56974
Revised Code, the public utilities commission finds that any 56975
existing rate, fare, charge, or classification, any joint rate, or 56976
any regulation or practice affecting the transportation of persons 56977
or property, or service in connection therewith, is unreasonable 56978
or unjustly discriminatory, or that any service is inadequate, it 56979
shall determine and by order fix a reasonable rate, fare, charge, 56980

classification, joint rate, regulation, practice, or service to be 56981
imposed, observed, and followed in the future, in place of that so 56982
found to be unreasonable, unjustly discriminatory, or inadequate. 56983
A certified copy of each such order shall be delivered to an 56984
officer or station agent of the railroad affected, and such order 56985
shall of its own force take effect and become operative thirty 56986
days after service. 56987

All railroads to which such order applies shall make such 56988
changes in their schedules on file as are necessary to conform to 56989
such order, and no change shall thereafter be made by any railroad 56990
in any such rate, fare, or charge, or in any joint rate, without 56991
the approval of the commission. 56992

Sec. 4911.01. As used in this chapter: 56993

(A) "Public utility" means every one as defined in divisions 56994
(A)~~(1)~~, ~~(3)~~, ~~(4)~~, ~~(5)~~, ~~(6)~~, ~~(7)~~, ~~(8)~~, (C), (D), (E), (F), (G), 56995
(H), and ~~(13)~~(M) of section 4905.03 of the Revised Code, including 56996
all public utilities that operate their utilities not for profit, 56997
except the following: 56998

(1) Electric light companies that operate their utilities not 56999
for profit; 57000

(2) Public utilities, other than telephone companies, that 57001
are owned and operated exclusively by and solely for the 57002
utilities' customers; 57003

(3) Public utilities that are owned or operated by any 57004
municipal corporation; 57005

(4) Railroads as defined in sections 4907.02 and 4907.03 of 57006
the Revised Code. 57007

(B) "Residential consumer" means urban, suburban, and rural 57008
patrons of public utilities insofar as their needs for utility 57009
services are limited to their residence. 57010

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|---|----------------------------------|
| <u>Sec. 4921.01. As used in this chapter:</u> | 57011 |
| <u>(A) "Ambulance" has the same meaning as in section 4766.01 of the Revised Code.</u> | 57012 57013 |
| <u>(B) "For-hire motor carrier" means a person engaged in the business of transporting persons or property by motor vehicle for compensation, except when engaged in any of the following in intrastate commerce:</u> | 57014 57015 57016 57017 |
| <u>(1) The transportation of persons in taxicabs in the usual taxicab service;</u> | 57018 57019 |
| <u>(2) The transportation of pupils in school busses operating to or from school sessions or school events;</u> | 57020 57021 |
| <u>(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;</u> | 57022 57023 |
| <u>(4) The distribution of newspapers;</u> | 57024 |
| <u>(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;</u> | 57025 57026 |
| <u>(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;</u> | 57027 57028 |
| <u>(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;</u> | 57029 57030 |
| <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> | 57031 57032 57033 57034 |
| <u>(9) The operation of motor vehicles for contractors on public road work.</u> | 57035 57036 |
| <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</u> | 57037 57038 57039 |

drivers and employees concerned with the installation, inspection, 57040
and maintenance of motor-vehicle equipment and accessories. 57041

Divisions (B)(1) to (9) of this section shall not be 57042
construed to relieve a person from compliance with 57043
hazardous-material regulation under section 4921.15 of the Revised 57044
Code and division (H) of section 4921.19 of the Revised Code, or 57045
rules adopted thereunder, or from compliance with rules governing 57046
unified carrier registration adopted under section 4921.11 of the 57047
Revised Code. 57048

(C) "Household goods" means personal effects and property 57049
used or to be used in a dwelling, excluding property moving from a 57050
factory or store. 57051

(D) "Interstate commerce" means trade, traffic, or 57052
transportation in the United States that is any of the following: 57053

(1) Between a place in a state and a place outside of that 57054
state (including a place outside of the United States); 57055

(2) Between two places in a state through another state or a 57056
place outside of the United States; 57057

(3) Between two places in a state as part of trade, traffic, 57058
or transportation originating or terminating outside the state or 57059
the United States. 57060

(E) "Intrastate commerce" means any trade, traffic, or 57061
transportation in any state which is not described in the term 57062
"interstate commerce." 57063

(F) "Motor vehicle" means any vehicle, machine, tractor, 57064
trailer, or semitrailer propelled or drawn by mechanical power and 57065
used upon the highways in the transportation of persons or 57066
property, or any combination thereof, but does not include any 57067
vehicle, locomotive, or car operated exclusively on a rail or 57068
rails, or a trolley bus operated by electric power derived from a 57069

fixed overhead wire, furnishing local passenger transportation 57070
similar to street-railway service. 57071

(G) "Public highway" means any public street, road, or 57072
highway in this state, whether within or without the corporate 57073
limits of a municipal corporation. 57074

(H) "Ridesharing arrangement" means the transportation of 57075
persons in a motor vehicle where such transportation is incidental 57076
to another purpose of a volunteer driver, and includes ridesharing 57077
arrangements known as carpools, vanpools, and buspools. 57078

(I) "School bus" has the same meaning as in section 4511.01 57079
of the Revised Code. 57080

(J) "Trailer" means any vehicle without motive power designed 57081
or used for carrying persons or property and for being drawn by a 57082
separate motor vehicle, including any vehicle of the trailer type, 57083
whether designed or used for carrying persons or property wholly 57084
on its own structure, or so designed or used that a part of its 57085
own weight or the weight of its load rests upon and is carried by 57086
such motor vehicle. 57087

Sec. 4921.03. (A) No for-hire motor carrier may operate in 57088
intrastate commerce unless the carrier has a current and valid 57089
certificate of public convenience and necessity. 57090

(B) The public utilities commission shall issue a certificate 57091
of public convenience and necessity to any person who does all of 57092
the following: 57093

(1) Files with the commission, in accordance with rules 57094
adopted under section 4921.05 of the Revised Code, a complete and 57095
accurate application that shall include a certification that (a) 57096
the person understands and is in compliance with the applicable 57097
service, operation, and safety laws of this state and (b) the 57098
person meets the requirements of section 4921.09 of the Revised 57099

Code; 57100

(2) Agrees to maintain accurate and current business and insurance information with the commission, in accordance with the commission's rules; 57101
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(3) Has paid 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. 57104
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(C) The commission shall have no power to fix, alter, or establish rates for the transportation of persons or property, nor shall the commission have the power to require or accept the filing of tariffs establishing such rates, except that the commission may accept the filing of tariffs establishing rates for the transportation of household goods. 57108
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(D) A for-hire motor carrier may, at any time after a certificate of public convenience and necessity is granted or refused, file a new application or supplement a former application. 57114
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(E) The commission may deny issuance of a certificate of public convenience and necessity for failure to comply with this section or rules adopted under section 4921.05 of the Revised Code. 57118
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Sec. 4921.05. The public utilities commission shall adopt rules prescribing the manner and form in which a person shall apply for a certificate of public convenience and necessity under section 4921.03 of the Revised Code. The rules shall include a requirement that applications be made in writing on the blanks furnished by the commission and contain any information and certifications deemed necessary by the commission to carry out this chapter. 57122
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Sec. 4921.07. (A) The public utilities commission shall adopt rules regarding procedures and timelines by which a certificate of public convenience and necessity issued under section 4921.03 of the Revised Code may be suspended. At a minimum, the rules shall require suspension of a certificate if the for-hire motor carrier does any of the following:

(1) Fails to file a complete and accurate application for the certificate under section 4921.03 of the Revised Code;

(2) Fails to maintain accurate and current business and insurance information with the commission;

(3) Fails to maintain proper proof of insurance or proper levels of insurance under section 4921.09 of the Revised Code;

(4) Fails to pay 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;

(5) Requests to suspend the carrier's operations.

(B)(1) The commission shall adopt rules regarding procedures and timelines by which a certificate suspended under division (A) of this section may be revoked if the conditions giving rise to the suspension are not remedied.

(2) The commission shall provide the carrier with written notice indicating the nature of the deficiency, a proposed effective date of the revocation, and the means by which the deficiency may be remedied. The carrier may correct the identified deficiency or submit evidence refuting the proposed revocation within sixty days from the date of the notice. The commission may extend the sixty-day period for good cause shown. The commission may revoke the certificate after the remedy period if the carrier

has not provided sufficient evidence to remedy the deficiency. 57160

Sec. 4921.09. (A) No certificate of public convenience and necessity shall be issued by the public utilities commission to any for-hire motor carrier until the carrier has filed with the commission a liability insurance certificate, policy, or bond satisfactory to the commission, in the sum and with the provisions the commission considers necessary adequately to protect the interests of the public, having due regard for the number of persons and amount of property affected. The certificate, policy, or bond shall insure the carrier against loss sustained by reason of death or injuries to persons and for loss or damage to property resulting from the negligence of the carrier. 57161
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(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. 57172
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(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: 57178
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(1) The minimum levels of financial responsibility for each type of for-hire motor carrier; 57182
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(2) The form and type of documents to be filed with the commission; 57184
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(3) The manner by which documents may be filed with the commission; 57186
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(4) The timelines for filing documents with the commission. 57188

(D) If a certificate, policy, or bond required under division 57189

(A) of this section is canceled during its term or lapses for any 57190
reason, both of the following apply: 57191

(1) All operations under the certificate of public 57192
convenience and necessity shall cease immediately, and further 57193
operations shall not be conducted until a replacement is filed 57194
with the commission under division (D)(2) of this section. 57195

(2) The commission shall require the company to replace the 57196
certificate, policy, or bond with another that fully complies with 57197
the requirements of this section. 57198

The certificate of public convenience and necessity shall be 57199
reinstated only after a satisfactory insurance certificate, 57200
policy, or bond has been filed with the commission. 57201

(E) To ensure minimum standards of protection of consumers' 57202
household goods, the commission may adopt rules, not incompatible 57203
with the requirements of the United States department of 57204
transportation, governing requirements for cargo insurance for 57205
for-hire motor carriers engaged in the transportation of household 57206
goods over a public highway in this state. 57207

Sec. 4921.11. The public utilities commission shall adopt 57208
rules applicable to registration pursuant to the unified carrier 57209
registration plan, codified as 49 U.S.C. 14504a, and the rules, 57210
procedures, and fee schedules adopted thereunder, in accordance 57211
with division (G) of section 4921.19 of the Revised Code. 57212

Sec. 4921.13. (A) The public utilities commission shall adopt 57213
rules applicable to the filing of annual update forms and the 57214
payment of taxes by for-hire motor carriers. The rules shall not 57215
be incompatible with the requirements of the United States 57216
department of transportation. The rules shall at a minimum address 57217
all of the following: 57218

(1) The information and certifications that must be provided 57219

to the commission on an annual update form, including a 57220
certification that the carrier continues to be in compliance with 57221
the applicable laws of this state. 57222

(2) Documentation and information that must be provided 57223
regarding proof of financial responsibility; 57224

(3) The form and manner in which taxes may be paid under 57225
section 4921.19 of the Revised Code. 57226

(B) The rules may address any other information that the 57227
commission determines is necessary to carry out this section. 57228

(C) A for-hire motor carrier shall not be issued a tax 57229
receipt under division (C) of section 4921.19 of the Revised Code 57230
until all of the following have been satisfied: 57231

(1) A complete and accurate annual update form has been filed 57232
with the commission; 57233

(2) Proof of financial responsibility remains in effect; 57234

(3) All applicable registration fees in accordance with rules 57235
adopted under section 4921.11 of the Revised Code, all applicable 57236
taxes under section 4921.19 of the Revised Code, and any 57237
forfeitures imposed under section 4923.99 of the Revised Code have 57238
been paid in full. 57239

Sec. 4921.15. (A) As used in sections 4921.15, 4921.16, and 57240
4921.19 of the Revised Code: 57241

(1) "Uniform registration" has the same meaning as 57242
"registration" as used in the final report submitted to the United 57243
States secretary of transportation, pursuant to subsection (c) of 57244
section 22 of the "Hazardous Materials Transportation Uniform 57245
Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819. 57246

(2) "Uniform permit" has the same meaning as "permit" as used 57247
in the final report submitted to the United States secretary of 57248

transportation, pursuant to subsection (c) of section 22 of the 57249
"Hazardous Materials Transportation Uniform Safety Act of 1990," 57250
104 Stat. 3244, 49 U.S.C.A. App. 1819. 57251

(B)(1) The public utilities commission may adopt rules 57252
applicable to the uniform registration and uniform permitting of 57253
persons engaged in the highway transportation of hazardous 57254
materials into, through, or within this state. The rules shall 57255
include rules staggering the registration date for those persons 57256
and reducing or extending, by no more than one year, the permit 57257
renewal period for those persons. 57258

(2) For the purpose of minimizing filing requirements 57259
regarding any background investigation required for the issuance 57260
of a uniform permit as a carrier of hazardous wastes, the 57261
commission shall accept from any applicant for the permit any 57262
refiling of information the applicant has filed with the office of 57263
the attorney general under section 3734.42 of the Revised Code or 57264
any reference to that information if the refiled or referenced 57265
information is on file with the office of the attorney general, is 57266
accurate and timely for the commission's purposes under this 57267
section, and is supplemented by any additional information the 57268
commission requires. The office of the attorney general, as 57269
necessary for a background investigation, shall make accessible to 57270
the commission any information referenced or refiled in an 57271
application for a uniform permit as a carrier of hazardous wastes 57272
that the attorney general determines may be disclosed in 57273
accordance with section 3734.42 of the Revised Code. Nothing in 57274
sections 4921.15, 4921.16, and division (H) of section 4921.19 of 57275
the Revised Code affects any limitations under section 3734.42 of 57276
the Revised Code on the disclosure of that information. 57277

(C) The commission, as necessary to implement the rules 57278
adopted under division (B) of this section, may enter into 57279
agreements, contracts, arrangements, or declarations with other 57280

states and with the national repository, established pursuant to 57281
the final report submitted to the United States secretary of 57282
transportation, pursuant to subsection (c) of section 22 of the 57283
"Hazardous Materials Transportation Uniform Safety Act of 1990," 57284
104 Stat. 3244, 49 U.S.C.A. App. 1819. The agreements, contracts, 57285
arrangements, or declarations shall include, but not be limited 57286
to, the determination of a base state, the collection of uniform 57287
registration fees, the frequency of distribution of uniform 57288
registration fees, procedures for dispute resolution, and 57289
protection of trade secrets and confidential business information. 57290

(D) No person shall knowingly falsify or fail to submit any 57291
data, reports, records, or other information required to be 57292
submitted to the commission pursuant to this section or a rule 57293
adopted under it. For purposes of this division, a person acts 57294
knowingly if either of the following applies: 57295

(1) The person has actual knowledge of the facts giving rise 57296
to the violation. 57297

(2) A reasonable person acting in the circumstances and 57298
exercising due care would have such knowledge. 57299

(E) After notice and opportunity for a hearing, the 57300
commission, pursuant to criteria set forth in rules adopted under 57301
division (B) of this section, may suspend, revoke, or deny the 57302
uniform permit as a carrier of hazardous materials of any person 57303
that has obtained or applied for such a uniform permit from the 57304
commission pursuant to rules adopted under that division, or the 57305
commission may order the suspension of the transportation of 57306
hazardous materials into, through, or within this state by a 57307
carrier that has obtained a uniform permit from another state that 57308
has a reciprocity agreement with the commission pursuant to 57309
division (C) of this section. 57310

(F)(1) The proceedings specified in division (E) of this 57311

section are subject to and governed by Chapter 4903. of the 57312
Revised Code, except as otherwise provided in this section. The 57313
court of appeals of Franklin county has exclusive original 57314
jurisdiction to review, modify, or vacate any order of the 57315
commission suspending, revoking, or denying a uniform permit as a 57316
carrier of hazardous materials of any person that has obtained or 57317
applied for a uniform permit from the commission pursuant to rules 57318
adopted under division (B) of this section, or any order of the 57319
commission suspending the transportation of hazardous materials 57320
into, through, or within this state by a carrier that has obtained 57321
a uniform permit from another state that has a reciprocity 57322
agreement with the commission under division (C) of this section. 57323
The court of appeals shall hear and determine those appeals in the 57324
same manner and under the same standards as the Ohio supreme court 57325
hears and determines appeals under Chapter 4903. of the Revised 57326
Code. The judgment of the court of appeals is final and conclusive 57327
unless reversed, vacated, or modified on appeal. Such appeals may 57328
be taken either by the commission or the person to whom the order 57329
was issued and shall proceed as in the case of appeals in civil 57330
actions as provided in Chapter 2505. of the Revised Code. 57331

(2) Section 4903.11 of the Revised Code does not apply to 57332
appeals of any order of the commission suspending, revoking, or 57333
denying a uniform permit of a person that has obtained or applied 57334
for a uniform permit from the commission pursuant to rules adopted 57335
under division (B) of this section, or of any order of the 57336
commission suspending the transportation of hazardous materials 57337
into, through, or within this state by a carrier that has obtained 57338
a uniform permit from another state that has a reciprocity 57339
agreement with the commission pursuant to division (C) of this 57340
section. Any person to whom such an order is issued who wishes to 57341
contest the order shall file, within sixty days after the entry of 57342
the order upon the journal of the commission, a notice of appeal, 57343
setting forth the order appealed from and the errors complained 57344

of. The notice of appeal shall be served, unless waived, upon the 57345
chairperson of the commission or, in the event of the 57346
chairperson's absence, upon any public utilities commissioner, or 57347
by leaving a copy at the office of the commission at Columbus. On 57348
appeal, the court shall reverse, vacate, or modify the order if, 57349
upon consideration of the record, the court is of the opinion that 57350
the order was unlawful or unreasonable. 57351

Sec. 4921.16. (A) Information submitted to the public 57352
utilities commission as part of a uniform registration 57353
application, pursuant to rules adopted under division (B) of 57354
section 4921.15 of the Revised Code, is a public record and is 57355
subject to section 149.43 of the Revised Code. 57356

(B) Except for information related to corporate structure and 57357
personnel, information that is submitted to the commission as part 57358
of a uniform permit application, pursuant to rules adopted under 57359
division (B) of section 4921.15 of the Revised Code, is a public 57360
record and is subject to section 149.43 of the Revised Code. 57361
Information that is related to corporate structure and personnel 57362
that is submitted to the commission as part of a uniform permit 57363
application, pursuant to rules adopted under division (B) of 57364
section 4921.15 of the Revised Code, is not a public record and is 57365
not subject to section 149.43 of the Revised Code. Except as 57366
provided in division (D) of this section, the commission shall not 57367
disclose to any person any information that is related to 57368
corporate structure and personnel that is submitted as part of a 57369
uniform permit application. 57370

(C) Information that is submitted for any background 57371
investigation for an application for a uniform permit as a carrier 57372
of hazardous wastes is not a public record and is not subject to 57373
section 149.43 of the Revised Code. Except as provided in division 57374
(D) of this section, the commission shall not disclose to any 57375

person any information submitted for any background investigation 57376
for such an application. 57377

(D) The commission may disclose to its authorized employees 57378
and to any federal agencies, state agencies of this state or 57379
another state, local government agencies of this state or another 57380
state, or the national repository established pursuant to the 57381
final report submitted to the United States secretary of 57382
transportation, pursuant to subsection (c) of section 22 of the 57383
"Hazardous Materials Transportation Uniform Safety Act of 1990," 57384
104 Stat. 3244, 49 U.S.C.A. App. 1819, any information submitted 57385
to the commission as part of a uniform permit application that is 57386
related to corporate structure and personnel or submitted for any 57387
background investigation for an application for a uniform permit 57388
as a carrier of hazardous wastes if all of the following 57389
conditions are met: 57390

(1) The commission enters into a confidentiality agreement 57391
with the employee, agency, or national repository under which that 57392
employee or entity agrees not to disclose to any third party any 57393
information related to corporate structure or personnel or any 57394
information submitted as part of a background investigation unless 57395
the third party enters into a confidentiality agreement with the 57396
commission consistent with this division. 57397

(2) The employee, agency, or national repository certifies to 57398
the commission that it is not required by any state or federal law 57399
to disclose any information related to corporate structure or 57400
personnel or any information submitted as part of a background 57401
investigation. 57402

(3) The federal agency, state or local government agency of 57403
another state, or national repository irrevocably consents in 57404
writing to the jurisdiction of the courts of this state and 57405
service of process in this state, including, without limitation, 57406
summonses and subpoenas, for any civil proceeding arising out of 57407

an intentional disclosure of information in violation of this 57408
division. 57409

(E) Any person who intentionally discloses information in 57410
violation of division (D) of this section is liable to the owner 57411
of the information for civil damages caused by the disclosure. 57412

Sec. 4921.19. (A) Every for-hire motor carrier operating in 57413
this state shall, at the time of the issuance of a certificate of 57414
public convenience and necessity under section 4921.03 of the 57415
Revised Code, pay to the public utilities commission, for and on 57416
behalf of the treasurer of state, the following taxes: 57417

(1) For each motor vehicle used for transporting persons, 57418
thirty dollars; 57419

(2) For each commercial tractor, as defined in section 57420
4501.01 of the Revised Code, used for transporting property, 57421
thirty dollars; 57422

(3) For each other motor vehicle transporting property, 57423
twenty dollars. 57424

(B) Every for-hire motor carrier operating in this state 57425
solely in intrastate commerce shall, annually between the first 57426
day of May and the thirtieth day of June, pay to the commission, 57427
for and on behalf of the treasurer of state, the following taxes: 57428

(1) For each motor vehicle used for transporting persons, 57429
thirty dollars; 57430

(2) For each commercial tractor, as defined in section 57431
4501.01 of the Revised Code, used for transporting property, 57432
thirty dollars; 57433

(3) For each other motor vehicle transporting property, 57434
twenty dollars. 57435

(C) After a for-hire motor carrier has paid the applicable 57436

taxes under division (B) of this section and all requirements 57437
under division (C) of section 4921.13 of the Revised Code have 57438
been met, the commission shall issue the carrier a tax receipt. 57439
The carrier shall carry a copy of the tax receipt in each motor 57440
vehicle operated by the carrier. The carrier shall maintain the 57441
original copy of the tax receipt at the carrier's primary place of 57442
business. 57443

(D) A trailer used by a for-hire motor carrier shall not be 57444
taxed under this section. 57445

(E) The annual tax levied by division (B) of this section 57446
does not apply in those cases where the commission finds that the 57447
movement of agricultural commodities or foodstuffs produced 57448
therefrom requires a temporary and seasonal use of vehicular 57449
equipment for a period of not more than ninety days. In such 57450
event, the tax on the vehicular equipment shall be twenty-five per 57451
cent of the annual tax levied by division (B) of this section. If 57452
any vehicular equipment is used in excess of the ninety-day 57453
period, the annual tax levied by this section shall be paid. 57454

(F) All taxes levied by division (B) of this section shall be 57455
reckoned as from the beginning of the quarter in which the tax 57456
receipt is issued or as from when the use of equipment under any 57457
existing tax receipt began. 57458

(G) The fees for unified carrier registration pursuant to 57459
section 4921.11 of the Revised Code shall be identical to those 57460
established by the unified carrier registration act board as 57461
approved by the federal motor carrier safety administration for 57462
each year. 57463

(H)(1) The fees for uniform registration and a uniform permit 57464
as a carrier of hazardous materials pursuant to section 4921.15 of 57465
the Revised Code shall consist of the following: 57466

(a) A processing fee of fifty dollars; 57467

(b) An apportioned per-truck registration fee, which shall be 57468
calculated by multiplying the percentage of a registrant's 57469
activity in this state times the percentage of the registrant's 57470
business that is hazardous-materials-related, times the number of 57471
vehicles owned or operated by the registrant, times a per-truck 57472
fee determined by order of the commission following public notice 57473
and an opportunity for comment. 57474

(i) The percentage of a registrant's activity in this state 57475
shall be calculated by dividing the number of miles that the 57476
registrant travels in this state under the international 57477
registration plan, pursuant to section 4503.61 of the Revised 57478
Code, by the number of miles that the registrant travels 57479
nationwide under the international registration plan. Registrants 57480
that operate solely within this state shall use one hundred per 57481
cent as their percentage of activity. Registrants that do not 57482
register their vehicles through the international registration 57483
plan shall calculate activity in the state in the same manner as 57484
that required by the international registration plan. 57485

(ii) The percentage of a registrant's business that is 57486
hazardous-materials-related shall be calculated, for 57487
less-than-truckload shipments, by dividing the weight of all the 57488
registrant's hazardous materials shipments by the total weight of 57489
all shipments in the previous year. The percentage of a 57490
registrant's business that is hazardous-materials-related shall be 57491
calculated, for truckload shipments, by dividing the number of 57492
shipments for which placarding, marking of the vehicle, or 57493
manifesting, as appropriate, was required by regulations adopted 57494
under sections 4 to 6 of the "Hazardous Materials Transportation 57495
Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C. App. 1804, 57496
by the total number of the registrant's shipments that transported 57497
any kind of goods in the previous year. A registrant that 57498
transports both less-than-truckload and truckload shipments of 57499

hazardous materials shall calculate the percentage of business 57500
that is hazardous-materials-related on a proportional basis. 57501

(iii) A registrant may utilize fiscal year, or calendar year, 57502
or other current company accounting data, or other publicly 57503
available information, in calculating the percentages required by 57504
divisions (H)(1)(b)(i) and (ii) of this section. 57505

(2) The commission, after notice and opportunity for a 57506
hearing, may assess each carrier a fee for any background 57507
investigation required for the issuance, for the purpose of 57508
section 3734.15 of the Revised Code, of a uniform permit as a 57509
carrier of hazardous wastes and fees related to investigations and 57510
proceedings for the denial, suspension, or revocation of a uniform 57511
permit as a carrier of hazardous materials. The fees shall not 57512
exceed the reasonable costs of the investigations and proceedings. 57513
The fee for a background investigation for a uniform permit as a 57514
carrier of hazardous wastes shall be six hundred dollars plus the 57515
costs of obtaining any necessary information not included in the 57516
permit application, to be calculated at the rate of thirty dollars 57517
per hour, not exceeding six hundred dollars, plus any fees payable 57518
to obtain necessary information. 57519

(I) The application fee for a certificate for the 57520
transportation of household goods issued pursuant to sections 57521
4921.30 to 4921.38 of the Revised Code shall be based on the 57522
certificate holder's gross revenue, in the prior year, for the 57523
intrastate transportation of household goods. The commission shall 57524
establish, by order, ranges of gross revenue and the fee for each 57525
range. The fees shall be set in amounts sufficient to carry out 57526
the purposes of sections 4921.30 to 4921.38 and 4923.99 of the 57527
Revised Code and, to the extent necessary, the commission shall 57528
make changes to the fee structure to ensure that neither over nor 57529
under collection of the fees occurs. The fees shall also take into 57530
consideration the revenue generated from the assessment of 57531

forfeitures under section 4923.99 of the Revised Code regarding 57532
the consumer protection provisions applicable to for-hire motor 57533
carriers engaged in the transportation of household goods. 57534

(J) The fees and taxes provided under this section shall be 57535
in addition to taxes, fees, and charges fixed and exacted by other 57536
sections of the Revised Code, except the assessments required by 57537
section 4905.10 of the Revised Code, but all fees, license fees, 57538
annual payments, license taxes, or taxes or other money exactions, 57539
except the general property tax, assessed, charged, fixed, or 57540
exacted by local authorities such as municipal corporations, 57541
townships, counties, or other local boards, or the officers of 57542
such subdivisions are illegal and, are superseded by sections 57543
4503.04 and 4905.03 and Chapter 4921. of the Revised Code. On 57544
compliance with sections 4503.04 and 4905.03 and Chapter 4921. of 57545
the Revised Code, all local ordinances, resolutions, by laws, and 57546
rules in force shall cease to be operative as to the persons in 57547
compliance, except that such local subdivisions may make 57548
reasonable local police regulations within their respective 57549
boundaries not inconsistent with sections 4503.04 and 4905.03 and 57550
Chapter 4921. of the Revised Code. 57551

Sec. 4921.21. (A) As used in this section, "adjusted credit 57552
amount" means the aggregate amount credited to the public 57553
utilities transportation safety fund, less the sum of all of the 57554
following: 57555

(1) The fees collected by the public utilities commission, in 57556
accordance with the unified carrier registration plan under 57557
section 4921.11 of the Revised Code, that exceed the federal 57558
certification of revenue for each year of the plan; 57559

(2) The fees collected by the commission on behalf of other 57560
states under division (C) of section 4921.15 of the Revised Code; 57561

(3) The forfeitures collected by the commission under section 57562

4923.99 of the Revised Code for violations of rules adopted under 57563
division (A)(2) of section 4923.04 of the Revised Code. 57564

(B)(1) There is hereby created in the state treasury the 57565
public utilities transportation safety fund. The fees collected in 57566
accordance with the unified carrier registration plan under 57567
section 4921.11 of the Revised Code, the fees collected under 57568
section 4921.15 of the Revised Code, the taxes and fees remitted 57569
under section 4921.19 of the Revised Code, the forfeitures imposed 57570
under section 4923.99 of the Revised Code, except as provided in 57571
division (B)(2) of this section, and the fines collected under 57572
section 4163.07 of the Revised Code shall be deposited into the 57573
state treasury to the credit of the public utilities 57574
transportation safety fund, until the adjusted credit amount in a 57575
fiscal year is equal to the total amount appropriated from the 57576
fund for the fiscal year. Once this point of parity is reached, 57577
any additional fees, taxes, forfeitures, or fines received during 57578
the fiscal year shall be credited to the general revenue fund, 57579
except as provided in division (B)(2) of this section, and except 57580
for both of the following: 57581

(a) The fees collected in accordance with the unified carrier 57582
registration plan under section 4921.11 of the Revised Code, that 57583
exceed the federal certification of revenue for each year of the 57584
plan; 57585

(b) The fees collected on behalf of other states under 57586
division (C) of section 4921.15 of the Revised Code. 57587

(2) The first eight hundred thousand dollars of forfeitures 57588
collected under section 4923.99 of the Revised Code, for 57589
violations of rules adopted under division (A)(2) of section 57590
4923.04 of the Revised Code, during each fiscal year shall be 57591
credited to the public utilities transportation safety fund. Any 57592
forfeitures in excess of that amount shall be deposited into the 57593
general revenue fund. In each fiscal year, the commission shall 57594

distribute moneys from these forfeitures credited to the public 57595
utilities transportation safety fund for the purposes of emergency 57596
response planning and the training of safety, enforcement, and 57597
emergency services personnel in proper techniques for the 57598
management of hazardous materials releases that occur during 57599
transportation or otherwise. For these purposes, fifty per cent of 57600
all such moneys credited to the public utilities transportation 57601
safety fund shall be distributed to Cleveland state university, 57602
forty-five per cent shall be distributed to other educational 57603
institutions, state agencies, regional planning commissions, and 57604
political subdivisions, and five per cent shall be retained by the 57605
commission for the administration of this section and for training 57606
employees. However, if, in any such period, moneys from these 57607
forfeitures credited to the public utilities transportation safety 57608
fund equal an amount less than four hundred thousand dollars, the 57609
commission shall distribute, to the extent of the aggregate amount 57610
of those moneys, two hundred thousand dollars to Cleveland state 57611
university and the remainder to other educational institutions, 57612
state agencies, regional planning commissions, and political 57613
subdivisions. 57614

(C) The purpose of the public utilities transportation safety 57615
fund shall be for defraying all expenses incident to maintaining 57616
the nonrailroad transportation activities of the commission. 57617

(D) There is hereby created in the state treasury the federal 57618
commercial vehicle transportation systems fund. The fund shall 57619
consist of money received from the United States department of 57620
transportation's commercial vehicle intelligent transportation 57621
systems infrastructure deployment program. The public utilities 57622
commission shall use the fund to deploy the Ohio commercial 57623
vehicle information systems networks project and to improve safety 57624
of motor carrier operations through electronic exchange of data. 57625

(E) There is hereby created in the state treasury the motor 57626

carrier safety fund. The fund shall consist of money received from 57627
the United States department of transportation for motor carrier 57628
safety. The commission shall use the fund to administer the 57629
state's motor carrier safety assistance program and associated 57630
grants, including the motor carrier safety assistance program 57631
basic grant, the incentive grant, the high priority grants, the 57632
new entrant safety assurance grant, the safety data improvement 57633
grant, or their equivalents. 57634

(F) If the director of budget and management determines there 57635
is not sufficient money in the public utilities transportation 57636
safety fund, the director shall transfer money from the general 57637
revenue fund to the public utilities transportation safety fund in 57638
an amount up to the difference between the balance of the public 57639
utilities transportation safety fund and the appropriations from 57640
that fund. If the director subsequently determines during the 57641
fiscal year that the balance of the public utilities 57642
transportation safety fund exceeds the amount needed to support 57643
the appropriations from the fund, the director shall transfer the 57644
excess money, up to the amount of the original transfer, to the 57645
general revenue fund. 57646

Sec. 4921.25. Any person, firm, copartnership, voluntary 57647
association, joint-stock association, company, or corporation, 57648
wherever organized or incorporated, that is engaged in the towing 57649
of motor vehicles is subject to regulation by the public utilities 57650
commission as a for-hire motor carrier under this chapter. Such an 57651
entity is not subject to any ordinance, rule, or resolution of a 57652
municipal corporation, county, or township that provides for the 57653
licensing, registering, or regulation of entities that tow motor 57654
vehicles. 57655

Sec. 4921.30. Except as otherwise provided in sections 57656
4921.32 to 4921.38 of the Revised Code, a for-hire motor carrier 57657

engaged in the transportation of household goods in intrastate 57658
commerce: 57659

(A) Is subject to Chapter 4921. of the Revised Code and to 57660
all other provisions of the Revised Code applicable to a for-hire 57661
motor carrier, including sections 4506.22, 4511.78, 5502.01, 57662
5503.02, and 5503.34 of the Revised Code; 57663

(B) Is not a public utility as defined in section 4911.01 of 57664
the Revised Code. 57665

Sec. 4921.32. Notwithstanding any provision of this chapter 57666
or Chapters 4901. to 4909. and 4923. of the Revised Code to the 57667
contrary: 57668

(A) Not later than six months after the effective date of 57669
this section, the public utilities commission, in accordance with 57670
sections 4921.30 to 4921.38 of the Revised Code, shall establish 57671
by order a certification system for for-hire motor carriers 57672
engaged in the transportation of household goods in intrastate 57673
commerce. 57674

(B) Beginning on the effective date of the order of the 57675
commission as initially issued under division (A) of this section, 57676
no for-hire motor carrier shall engage in the transportation of 57677
household goods in intrastate commerce without first holding a 57678
current and valid certificate for the transportation of household 57679
goods issued by the commission pursuant to sections 4921.30 to 57680
4921.38 of the Revised Code. 57681

Sec. 4921.34. (A) The public utilities commission shall 57682
approve an application for a certificate for the transportation of 57683
household goods under sections 4921.30 to 4921.38 of the Revised 57684
Code and shall issue a certificate, provided the applicant pays 57685
the applicable application fee under division (I) of section 57686
4921.19 of the Revised Code and submits to the commission a 57687

completed application, on a form prescribed by the commission, 57688
that is substantially the same as the application prescribed by 57689
the commission pursuant to section 4921.05 of the Revised Code, 57690
and includes a certification of all of the following by 57691
responsible officials of the applicant: 57692

(1) The applicant's workers' compensation coverage is current 57693
pursuant to Chapter 4123. of the Revised Code. 57694

(2) The applicant's unemployment compensation coverage is 57695
current pursuant to Chapter 4141. of the Revised Code. 57696

(3) The applicant's financial responsibility is in accordance 57697
with rules adopted by the commission under section 4921.09 of the 57698
Revised Code. 57699

(B) The commission shall not approve any application that 57700
does not contain the proper certifications required by this 57701
section. The commission may revoke a certificate issued under 57702
division (A) of this section if, after at least fifteen days' 57703
advance notice to the certificate holder of the basis for such 57704
action and providing the holder with an opportunity for a hearing, 57705
the commission finds that the holder is not in compliance with 57706
this chapter, or rules adopted or orders issued under it. 57707

(C) A certificate issued under division (A) of this section 57708
is valid for one year and is renewable annually. 57709

Sec. 4921.36. Each holder of a certificate for the 57710
transportation of household goods shall do all of the following: 57711

(A) Make its current certificate available for public 57712
inspection during normal business hours; 57713

(B) Present each of its customers with information, written 57714
in plain and clear language and pursuant to a form prescribed by 57715
the public utilities commission, outlining a consumer's rights; 57716

(C) Include its certificate number on all advertising, written estimates, and contracts, pursuant to rules adopted by the commission. 57717
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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: 57720
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(A) Providing for binding estimates by for-hire motor carriers engaged in the transportation of household goods in intrastate commerce; 57723
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(B) Providing for guaranteed-not-to-exceed estimates by those carriers; 57726
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(C) Requiring those carriers to include their certificate number in all advertising, written estimates, and contracts related to the transportation of household goods in intrastate commerce; 57728
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(D) As are necessary and proper to carry out this chapter with respect to those carriers; 57732
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(E) Providing for the enforcement of the consumer protection provisions of Title 49 of the United States Code related to the delivery and transportation of household goods in interstate commerce, as permitted by 49 U.S.C. 14710. 57734
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Sec. 4923.01. As used in this chapter: 57738

(A) "Ambulance," "interstate commerce," "intrastate commerce," "motor vehicle," "public highway," "ridesharing arrangement," and "school bus" have the same meanings as in section 4921.01 of the Revised Code. 57739
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(B) "For-hire motor carrier" means a person engaged in the business of transporting persons or property by motor vehicle for compensation, except when engaged in any of the following in 57743
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| <u>intrastate commerce:</u> | 57746 |
| <u>(1) The transportation of persons in taxicabs in the usual taxicab service;</u> | 57747 |
| <u>(2) The transportation of pupils in school busses operating to or from school sessions or school events;</u> | 57748 |
| <u>(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;</u> | 57749 |
| <u>(4) The distribution of newspapers;</u> | 57750 |
| <u>(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;</u> | 57751 |
| <u>(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;</u> | 57752 |
| <u>(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;</u> | 57753 |
| <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> | 57754 |
| <u>(9) The operation of motor vehicles for contractors on public road work.</u> | 57755 |
| <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> | 57756 |
| <u>Divisions (B)(1) to (9) 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</u> | 57757 |
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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. 57776
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(C) "Motor carrier" means both a for-hire motor carrier and a private motor carrier. 57779
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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. 57781
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Sec. 4923.02. (A) As used in this chapter, "private motor carrier" does not include a person when engaged in any of the following in intrastate commerce: 57790
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(1) The transportation of persons in taxicabs in the usual taxicab service; 57793
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(2) The transportation of pupils in school busses operating to or from school sessions or school events; 57795
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(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants; 57797
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(4) The distribution of newspapers; 57799

(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line; 57800
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(6) The transportation of injured, ill, or deceased persons by hearse or ambulance; 57802
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(7) The transportation of compost (a combination of manure 57804

and sand or shredded bark mulch) or shredded bark mulch; 57805

(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; 57806
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(9) The operation of motor vehicles for contractors on public road work. 57810
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(B) The public utilities commission may grant a motor carrier operating in intrastate commerce a temporary exemption from some or all of the provisions of this chapter and the rules adopted under it, when either of the following applies: 57812
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(1) The governor of this state has declared an emergency. 57816

(2) The chairperson of the commission or the chairperson's designee has declared a transportation-specific emergency. 57817
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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. 57819
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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: 57824
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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; 57827
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(2) Rules regarding commercial driver's licenses adopted under division (A)(1) of section 4923.04 of the Revised Code. 57831
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Sec. 4923.04. (A)(1) The public utilities commission shall 57833

adopt rules applicable to the transportation of persons or 57834
property by motor carriers operating in interstate and intrastate 57835
commerce. 57836

(2) The commission shall adopt rules applicable to the 57837
highway transportation and offering for transportation of 57838
hazardous materials by motor carriers, and persons engaging in the 57839
highway transportation and offering for transportation of 57840
hazardous materials, operating in interstate or intrastate 57841
commerce. 57842

(B) The rules adopted under division (A) of this section 57843
shall not be incompatible with the requirements of the United 57844
States department of transportation. 57845

(C) To achieve the purposes of this chapter and to assist the 57846
commission in the performance of any of its powers or duties, the 57847
commission, either through the public utilities commissioners or 57848
employees authorized by it, may do either or both of the 57849
following: 57850

(1) Apply for, and any judge of a court of record of 57851
competent jurisdiction may issue, an appropriate search warrant; 57852

(2) Examine under oath, at the offices of the commission, any 57853
officer, agent, or employee of any person subject to this chapter. 57854
The commission, by subpoena, also may compel the attendance of a 57855
witness for the purpose of the examination and, by subpoena duces 57856
tecum, may compel the production of all books, contracts, records, 57857
and documents that relate to the transportation and offering for 57858
transportation of hazardous materials. 57859

Sec. 4923.06. (A) The public utilities commission may, 57860
through the commission's inspectors or other authorized employees, 57861
enter in or upon any motor vehicle of any motor carrier, or any 57862
person engaging in the transportation of hazardous material or 57863

hazardous waste, to inspect the motor vehicle or driver subject to 57864
rules adopted under section 4923.04 of the Revised Code. 57865

(B) In order to assist the commission in performing its 57866
duties under this section, authorized employees of the state 57867
highway patrol of the department of public safety may conduct 57868
inspections of motor vehicles and drivers. 57869

(C) Inspectors and employees authorized to conduct 57870
inspections under divisions (A) and (B) of this section may, under 57871
the direction of the commission, stop motor vehicles to inspect 57872
those vehicles and drivers to enforce compliance with rules 57873
adopted under section 4923.04 of the Revised Code. 57874

(D) Inspectors and employees authorized to conduct 57875
inspections under divisions (A) and (B) of this section shall 57876
conduct inspections consistent with the North American standard 57877
inspection procedure of the commercial vehicle safety alliance and 57878
the standards of the United States department of transportation. 57879
The inspectors and employees may declare drivers and motor 57880
vehicles out-of-service consistent with this procedure and these 57881
standards. 57882

(E) The commission may adopt rules to carry out this section 57883
that are not incompatible with the requirements of the United 57884
States department of transportation. 57885

Sec. 4923.07. (A) The public utilities commission may, 57886
through the commission's inspectors or other authorized employees, 57887
enter in or upon the premises and motor vehicles of any motor 57888
carrier, or any person engaging in the transportation of hazardous 57889
material or hazardous waste, to examine any records, documents, or 57890
property for the purpose of assessing the safety, performance, and 57891
management controls associated with the carrier or person. 57892

(B) The commission may adopt rules to carry out this section 57893

that are not incompatible with the requirements of the United States department of transportation. 57894
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Sec. 4923.09. The public utilities commission shall cooperate with and permit the use of the services, records, and facilities of the commission as fully as practicable by appropriate officers of the United States department of transportation, other federal agencies or commissions, and appropriate commissions of other states in the enforcement and administration of state and federal laws relating to highway transportation by motor vehicles. The commission may enter into cooperative agreements with the United States department of transportation and any other federal agency or commission to enforce the safety laws and rules of this state and of the United States concerning highway transportation by motor vehicles. All grants-in-aid, cash, and reimbursements received by the commission pursuant to those cooperative agreements shall be deposited to the credit of the motor carrier safety fund created under section 4921.21 of the Revised Code. 57896
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Sec. 4923.11. The public utilities commission may adopt rules applicable to the highway routing of hazardous materials into, through, or within this state. Rules adopted under this section shall not be incompatible with requirements of the United States department of transportation. 57911
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Sec. 4923.15. Proceedings of the public utilities commission for the assessment of forfeitures for violations of Chapters 4921. and 4923. of the Revised Code are subject to and governed by section 4923.99 of the Revised Code. In all other respects in which the commission has power and authority under Chapters 4921. and 4923. of the Revised Code, applications and complaints may be made and filed with the commission, processes may be issued, hearings may be held, opinions, orders, and decisions may be made 57916
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and filed, petitions for rehearing may be filed and acted upon, 57924
and all proceedings before the supreme court of this state may be 57925
considered and disposed of by that court in the manner, under the 57926
conditions, subject to the limitations, and with the effect 57927
specified in the sections of the Revised Code governing the 57928
supervision of public utilities by the commission. 57929

Sec. 4923.99. (A)(1) Whoever violates Chapter 4921. or 4923. 57930
of the Revised Code is liable to the state for a forfeiture of not 57931
more than twenty-five thousand dollars for each day of each 57932
violation. The public utilities commission, after providing 57933
reasonable notice and the opportunity for a hearing in accordance 57934
with the procedural rules adopted under section 4901.13 of the 57935
Revised Code, shall assess, by order, a forfeiture upon a person 57936
whom the commission determines, by a preponderance of the 57937
evidence, committed the violation. In determining the amount of 57938
the forfeiture for a violation discovered during a driver or 57939
motor-vehicle inspection under section 4923.06 of the Revised 57940
Code, the commission shall, to the extent practicable, not act in 57941
a manner incompatible with the requirements of the United States 57942
department of transportation, and, to the extent practicable, 57943
shall utilize a system comparable to the recommended civil-penalty 57944
procedure adopted by the commercial vehicle safety alliance. In 57945
determining the amount of the forfeiture for a violation 57946
discovered during a compliance review of a motor carrier under 57947
section 4923.07 of the Revised Code, the commission shall, to the 57948
extent practicable, not act in a manner incompatible with the 57949
civil-penalty guidelines of the United States department of 57950
transportation. 57951

The attorney general, upon the written request of the 57952
commission, shall bring a civil action in the court of common 57953
pleas of Franklin county to collect a forfeiture assessed under 57954
this section. The commission shall account for the forfeitures 57955

collected under this section and pay them to the treasurer of 57956
state under section 4921.21 of the Revised Code. 57957

(2) The attorney general, upon the written request of the 57958
commission, shall bring an action for injunctive relief in the 57959
court of common pleas of Franklin county against any person who 57960
has violated or is violating any order issued by the commission to 57961
secure compliance with any provision of Chapter 4921. or 4923. of 57962
the Revised Code. The court of common pleas of Franklin county has 57963
jurisdiction to and may grant preliminary and permanent injunctive 57964
relief upon a showing that the person against whom the action is 57965
brought has violated or is violating any such order. The court 57966
shall give precedence to such an action over all other cases. 57967

(B) The amount of any forfeiture may be compromised at any 57968
time prior to collection of the forfeiture. The commission shall 57969
adopt rules governing the manner in which the amount of a 57970
forfeiture may be established by agreement prior to the hearing on 57971
the forfeiture before the commission. 57972

(C) The proceedings of the commission specified in division 57973
(A) of this section are subject to and governed by Chapter 4903. 57974
of the Revised Code, except as otherwise specifically provided in 57975
this section. The court of appeals of Franklin county has 57976
exclusive, original jurisdiction to review, modify, or vacate an 57977
order of the commission issued to secure compliance with any 57978
provision of Chapter 4921. or 4923. of the Revised Code. The court 57979
of appeals shall hear and determine those appeals in the same 57980
manner, and under the same standards, as the supreme court hears 57981
and determines appeals under Chapter 4903. of the Revised Code. 57982
The judgment of the court of appeals is final and conclusive 57983
unless reversed, vacated, or modified on appeal. Such appeals may 57984
be taken either by the commission or the person to whom the 57985
compliance order or forfeiture assessment was issued and shall 57986
proceed as in the case of appeals in civil actions as provided in 57987

the rules of appellate procedure and Chapter 2505. of the Revised Code. 57988
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(D) Section 4903.11 of the Revised Code does not apply to an appeal of an order issued to secure compliance with Chapter 4921. or 4923. of the Revised Code or an order issued under division (A)(1) of this section assessing a forfeiture. Any person to whom any such order is issued who wishes to contest a compliance order, the fact of the violation, or the amount of the forfeiture shall file a notice of appeal, setting forth the order appealed from and the errors complained of, within sixty days after the entry of the order upon the journal of the commission. The notice of appeal shall be served, unless waived, upon the chairperson of the commission or, in the event of the chairperson's absence, upon any public utilities commissioner, or by leaving a copy at the office of the commission at Columbus. An order issued by the commission to secure compliance with Chapter 4921. or 4923. of the Revised Code or an order issued under division (A)(1) of this section assessing a forfeiture shall be reversed, vacated, or modified on appeal if, upon consideration of the record, the court is of the opinion that the order was unlawful or unreasonable. 57990
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(E) Only for such violations that constitute violations of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1804 and 1805, or regulations adopted under the act, the commission, in determining liability, shall use the same standard of culpability for civil forfeitures under this section as that set forth for civil penalties under section 12 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1809. The commission shall consider the assessment considerations for civil penalties specified in regulations adopted under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C. 1801. 58008
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| Sec. 4927.01. (A) As used in this chapter: | 58020 |
| (1) "Basic local exchange service" means residential-end-user access to and usage of telephone-company-provided services over a single line or small-business-end-user access to and usage of telephone-company-provided services over the primary access line of service, which in the case of residential and small-business access and usage is not part of a bundle or package of services, that does both of the following: | 58021 58022 58023 58024 58025 58026 58027 |
| (a) Enables a customer to originate or receive voice communications within a local service area as that area exists on <u>September 13, 2010</u> , the effective date of the amendment of this section by S.B. 162 of the 128th general assembly; | 58028 58029 58030 58031 |
| (b) Consists of all of the following services: | 58032 |
| (i) Local dial tone service; | 58033 |
| (ii) For residential end users, flat-rate telephone exchange service; | 58034 58035 |
| (iii) Touch tone dialing service; | 58036 |
| (iv) Access to and usage of 9-1-1 services, where such services are available; | 58037 58038 |
| (v) Access to operator services and directory assistance; | 58039 |
| (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; | 58040 58041 58042 |
| (vii) Per call, caller identification blocking services; | 58043 |
| (viii) Access to telecommunications relay service; and | 58044 |
| (ix) Access to toll presubscription, interexchange or toll providers or both, and networks of other telephone companies. | 58045 58046 |
| (2) "Bundle or package of services" means one or more | 58047 |

telecommunications services or other services offered together as 58048
one service option at a single price. 58049

(3) "Carrier access" means access to and usage of telephone 58050
company-provided facilities that enable end user customers 58051
originating or receiving voice grade, data, or image 58052
communications, over a local exchange telephone company network 58053
operated within a local service area, to access interexchange or 58054
other networks and includes special access. 58055

(4) "Federal poverty level" means the income level 58056
represented by the poverty guidelines as revised annually by the 58057
United States department of health and human services in 58058
accordance with section 673(2) of the "Omnibus Reconciliation Act 58059
of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family 58060
size equal to the size of the family of the person whose income is 58061
being determined. 58062

(5) "Incumbent local exchange carrier" means, with respect to 58063
an area, the local exchange carrier that: 58064

(a) On February 8, 1996, provided telephone exchange service 58065
in such area; and 58066

(b)(i) On February 8, 1996, was deemed to be a member of the 58067
exchange carrier association pursuant to 47 C.F.R. 69.601(b); or 58068

(ii) Is a person or entity that, on or after February 8, 58069
1996, became a successor or assign of a member described in 58070
division (A)(5)(b)(i) of this section. 58071

(6) "Internet protocol-enabled services" means any services, 58072
capabilities, functionalities, or applications that are provided 58073
using internet protocol or a successor protocol to enable an end 58074
user to send or receive communications in internet protocol format 58075
or a successor format, regardless of how any particular such 58076
service is classified by the federal communications commission, 58077
and includes voice over internet protocol service. 58078

(7) "Local exchange carrier" means any person engaged in the provision of telephone exchange service, or the offering of access to telephone exchange service or facilities for the purpose of originating or terminating telephone toll service.

(8) "Local service area" means the geographic area that may encompass more than one exchange area and within which a telephone customer, by paying the rate for basic local exchange service, may complete calls to other telephone customers without being assessed long distance toll charges.

(9) "Small business" means a nonresidential service customer with three or fewer service access lines.

(10) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(11) "Telecommunications carrier" has the same meaning as in the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153.

(12) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(13) "Telephone company" means a company described in division (A)~~(1)~~ of section 4905.03 of the Revised Code that is a public utility under section 4905.02 of the Revised Code.

(14) "Telephone exchange service" means telecommunications service that is within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and that is covered by the exchange service charge; or comparable service provided through a system of switches, transmission equipment, or

other facilities, or combination thereof, by which a customer can 58110
originate and terminate a telecommunications service. 58111

(15) "Telephone toll service" means telephone service between 58112
stations in different exchange areas for which there is made a 58113
separate charge not included in contracts with customers for 58114
exchange service. 58115

(16) "Voice over internet protocol service" means a service 58116
that uses a broadband connection from an end user's location and 58117
enables real-time, two-way, voice communications that originate or 58118
terminate from the user's location using internet protocol or a 58119
successor protocol, including, but not limited to, any such 58120
service that permits an end user to receive calls from and 58121
terminate calls to the public switched network. 58122

(17) "Wireless service" means federally licensed commercial 58123
mobile service as defined in the "Telecommunications Act of 1996," 58124
110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as 58125
commercial mobile radio service in 47 C.F.R. 20.3. Under division 58126
(A)(17) of this section, commercial mobile radio service is 58127
specifically limited to mobile telephone, mobile cellular 58128
telephone, paging, personal communications services, and 58129
specialized mobile radio service provided by a common carrier in 58130
this state and excludes fixed wireless service. 58131

(18) "Wireless service provider" means a facilities-based 58132
provider of wireless service to one or more end users in this 58133
state. 58134

(B) The definitions of this section shall be applied 58135
consistent with the definitions in the "Telecommunications Act of 58136
1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with 58137
federal decisions interpreting those definitions. 58138

Sec. 4929.01. As used in this chapter: 58139

(A) "Alternative rate plan" means a method, alternate to the 58140
method of section 4909.15 of the Revised Code, for establishing 58141
rates and charges, under which rates and charges may be 58142
established for a commodity sales service or ancillary service 58143
that is not exempt pursuant to section 4929.04 of the Revised Code 58144
or for a distribution service. Alternative rate plans may include, 58145
but are not limited to, methods that provide adequate and reliable 58146
natural gas services and goods in this state; minimize the costs 58147
and time expended in the regulatory process; tend to assess the 58148
costs of any natural gas service or goods to the entity, service, 58149
or goods that cause such costs to be incurred; afford rate 58150
stability; promote and reward efficiency, quality of service, or 58151
cost containment by a natural gas company; provide sufficient 58152
flexibility and incentives to the natural gas industry to achieve 58153
high quality, technologically advanced, and readily available 58154
natural gas services and goods at just and reasonable rates and 58155
charges; or establish revenue decoupling mechanisms. Alternative 58156
rate plans also may include, but are not limited to, automatic 58157
adjustments based on a specified index or changes in a specified 58158
cost or costs. 58159

(B) "Ancillary service" means a service that is ancillary to 58160
the receipt or delivery of natural gas to consumers, including, 58161
but not limited to, storage, pooling, balancing, and transmission. 58162

(C) "Commodity sales service" means the sale of natural gas 58163
to consumers, exclusive of any distribution or ancillary service. 58164

(D) "Comparable service" means any regulated service or goods 58165
whose availability, quality, price, terms, and conditions are the 58166
same as or better than those of the services or goods that the 58167
natural gas company provides to a person with which it is 58168
affiliated or which it controls, or, as to any consumer, that the 58169
natural gas company offers to that consumer as part of a bundled 58170
service that includes both regulated and exempt services or goods. 58171

(E) "Consumer" means any person or association of persons 58172
purchasing, delivering, storing, or transporting, or seeking to 58173
purchase, deliver, store, or transport, natural gas, including 58174
industrial consumers, commercial consumers, and residential 58175
consumers, but not including natural gas companies. 58176

(F) "Distribution service" means the delivery of natural gas 58177
to a consumer at the consumer's facilities, by and through the 58178
instrumentalities and facilities of a natural gas company, 58179
regardless of the party having title to the natural gas. 58180

(G) "Natural gas company" means a natural gas company, as 58181
defined in section 4905.03 of the Revised Code, that is a public 58182
utility as defined in section 4905.02 of the Revised Code and 58183
excludes a retail natural gas supplier. 58184

(H) "Person," except as provided in division (N) of this 58185
section, has the same meaning as in section 1.59 of the Revised 58186
Code, and includes this state and any political subdivision, 58187
agency, or other instrumentality of this state and includes the 58188
United States and any agency or other instrumentality of the 58189
United States. 58190

(I) "Billing or collection agent" means a fully independent 58191
agent, not affiliated with or otherwise controlled by a retail 58192
natural gas supplier or governmental aggregator subject to 58193
certification under section 4929.20 of the Revised Code, to the 58194
extent that the agent is under contract with such supplier or 58195
aggregator solely to provide billing and collection for 58196
competitive retail natural gas service on behalf of the supplier 58197
or aggregator. 58198

(J) "Competitive retail natural gas service" means any retail 58199
natural gas service that may be competitively offered to consumers 58200
in this state as a result of revised schedules approved under 58201
division (C) of section 4929.29 of the Revised Code, a rule or 58202

order adopted or issued by the public utilities commission under 58203
Chapter 4905. of the Revised Code, or an exemption granted by the 58204
commission under sections 4929.04 to 4929.08 of the Revised Code. 58205

(K) "Governmental aggregator" means either of the following: 58206

(1) A legislative authority of a municipal corporation, a 58207
board of township trustees, or a board of county commissioners 58208
acting exclusively under section 4929.26 or 4929.27 of the Revised 58209
Code as an aggregator for the provision of competitive retail 58210
natural gas service; 58211

(2) A municipal corporation acting exclusively under Section 58212
4 of Article XVIII, Ohio Constitution, as an aggregator for the 58213
provision of competitive retail natural gas service. 58214

(L)(1) "Mercantile customer" means a customer that consumes, 58215
other than for residential use, more than five hundred thousand 58216
cubic feet of natural gas per year at a single location within 58217
this state or consumes natural gas, other than for residential 58218
use, as part of an undertaking having more than three locations 58219
within or outside of this state. "Mercantile customer" excludes a 58220
customer for which a declaration under division (L)(2) of this 58221
section is in effect pursuant to that division. 58222

(2) A not-for-profit customer that consumes, other than for 58223
residential use, more than five hundred thousand cubic feet of 58224
natural gas per year at a single location within this state or 58225
consumes natural gas, other than for residential use, as part of 58226
an undertaking having more than three locations within or outside 58227
this state may file a declaration under division (L)(2) of this 58228
section with the public utilities commission. The declaration 58229
shall take effect upon the date of filing, and by virtue of the 58230
declaration, the customer is not a mercantile customer for the 58231
purposes of this section and sections 4929.20 to 4929.29 of the 58232
Revised Code or the purposes of a governmental natural gas 58233

aggregation or arrangement or other contract entered into after 58234
the declaration's effective date for the supply or arranging of 58235
the supply of natural gas to the customer to a location within 58236
this state. The customer may file a rescission of the declaration 58237
with the commission at any time. The rescission shall not affect 58238
any governmental natural gas aggregation or arrangement or other 58239
contract entered into by the customer prior to the date of the 58240
filing of the rescission and shall have effect only with respect 58241
to any subsequent such aggregation or arrangement or other 58242
contract. The commission shall prescribe rules under section 58243
4929.10 of the Revised Code specifying the form of the declaration 58244
or a rescission and procedures by which a declaration or 58245
rescission may be filed. 58246

(M) "Retail natural gas service" means commodity sales 58247
service, ancillary service, natural gas aggregation service, 58248
natural gas marketing service, or natural gas brokerage service. 58249

(N) "Retail natural gas supplier" means any person, as 58250
defined in section 1.59 of the Revised Code, that is engaged on a 58251
for-profit or not-for-profit basis in the business of supplying or 58252
arranging for the supply of a competitive retail natural gas 58253
service to consumers in this state that are not mercantile 58254
customers. "Retail natural gas supplier" includes a marketer, 58255
broker, or aggregator, but excludes a natural gas company, a 58256
governmental aggregator as defined in division (K)(1) or (2) of 58257
this section, an entity described in division ~~(B)~~(A)(2) or ~~(C)~~(3) 58258
of section 4905.02 of the Revised Code, or a billing or collection 58259
agent, and excludes a producer or gatherer of gas to the extent 58260
such producer or gatherer is not a natural gas company under 58261
section 4905.03 of the Revised Code. 58262

(O) "Revenue decoupling mechanism" means a rate design or 58263
other cost recovery mechanism that provides recovery of the fixed 58264
costs of service and a fair and reasonable rate of return, 58265

irrespective of system throughput or volumetric sales. 58266

Sec. 4929.02. (A) It is the policy of this state to, 58267
throughout this state: 58268

(1) Promote the availability to consumers of adequate, 58269
reliable, and reasonably priced natural gas services and goods; 58270

(2) Promote the availability of unbundled and comparable 58271
natural gas services and goods that provide wholesale and retail 58272
consumers with the supplier, price, terms, conditions, and quality 58273
options they elect to meet their respective needs; 58274

(3) Promote diversity of natural gas supplies and suppliers, 58275
by giving consumers effective choices over the selection of those 58276
supplies and suppliers; 58277

(4) Encourage innovation and market access for cost-effective 58278
supply- and demand-side natural gas services and goods; 58279

(5) Encourage cost-effective and efficient access to 58280
information regarding the operation of the distribution systems of 58281
natural gas companies in order to promote effective customer 58282
choice of natural gas services and goods; 58283

(6) Recognize the continuing emergence of competitive natural 58284
gas markets through the development and implementation of flexible 58285
regulatory treatment; 58286

(7) Promote an expeditious transition to the provision of 58287
natural gas services and goods in a manner that achieves effective 58288
competition and transactions between willing buyers and willing 58289
sellers to reduce or eliminate the need for regulation of natural 58290
gas services and goods under Chapters 4905. and 4909. of the 58291
Revised Code; 58292

(8) Promote effective competition in the provision of natural 58293
gas services and goods by avoiding subsidies flowing to or from 58294
regulated natural gas services and goods; 58295

(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;

(10) Facilitate the state's competitiveness in the global economy;

(11) Facilitate additional choices for the supply of natural gas for residential consumers, including aggregation;

(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. 4929.041. (A) As used in this section, "regulatory exemption" means an exemption from all provisions of Chapter 4905. of the Revised Code with the exception of sections 4905.10, 4905.35, and 4905.90 to 4905.96 of the Revised Code, Chapters 4909., 4933., and 4935. of the Revised Code, with the exception of section 4935.03 of the Revised Code, and from any rule or order issued under the exempted provisions of those chapters.

(B) The public utilities commission, upon ~~the~~ an application

~~of~~ filed under section 4909.18 of the Revised Code by a natural 58326
gas company in substantial compliance with the policy specified in 58327
section 4929.02 of the Revised Code, shall ~~exempt~~ grant a 58328
regulatory exemption, by order, ~~any investment~~ for either or both 58329
of the following: 58330

(1) Any investments in ~~gathering lines or storage or~~ 58331
~~gathering~~ facilities placed into service on or after January 1, 58332
2010, and also any service of the natural gas company related to 58333
those ~~gathering lines or storage~~ facilities from all provisions of 58334
Chapter 4905. of the Revised Code with the exception of sections 58335
4905.10, 4905.35, and 4905.90 to 4905.96 of the Revised Code, 58336
Chapters 4909., 4933., and 4935. of the Revised Code, with the 58337
exception of section 4935.03 of the Revised Code, and from any 58338
rule or order issued under the ~~exempted~~ provisions of those 58339
chapters; 58340

(2) Any investments in gathering facilities placed into 58341
service before January 1, 2010, and also any service of the 58342
natural gas company related to those facilities. 58343

(C)(1) A natural gas company requesting a regulatory 58344
exemption under division (B)(2) of this section shall identify in 58345
the application both of the following: 58346

(a) The valuation of the investments to be exempted, as 58347
determined under division (A)(1) of section 4909.15 of the Revised 58348
Code, in the rate case proceeding that established the company's 58349
rates in effect at the time of the filing of the application 58350
requesting the regulatory exemption; 58351

(b) The valuation of all nonexempt investments placed into 58352
service after the date certain used in the rate case proceeding 58353
described in division (C)(1)(a) of this section, excluding 58354
investments for which deferral or recovery is authorized under 58355
section 4909.18, 4929.05, or 4929.111 of the Revised Code. 58356

(2) The commission shall compare the valuations identified in divisions (C)(1)(a) and (b) of this section. 58357
58358

(a) If the valuation identified in division (C)(1)(a) of this section exceeds the valuation identified in division (C)(1)(b) of this section, the commission shall, in addition to the adjustments needed to implement the regulatory exemption, reduce the gross annual revenues to which the utility is entitled under division (B) of section 4909.15 of the Revised Code by applying the rate of return, as determined under division (A)(2) of section 4909.15 of the Revised Code in the rate case proceeding in which the regulatory exemption is being sought, to the difference in the two valuations. 58359
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(b) If the valuation identified in division (C)(1)(a) of this section does not exceed the valuation identified in division (C)(1)(b) of this section, the commission shall make no adjustments beyond those needed to implement the regulatory exemption. 58369
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~~(B)(D)(1)~~ Subject to division ~~(C)(E)~~ of this section, a natural gas company subject to ~~an~~ a regulatory exemption order issued under division (A) of this section shall, to the maximum extent practicable, keep separate the company's operations, resources, and employees, and the associated books and records, involved in the provision or marketing of a company-provided service related to an investment exempted under the regulatory exemption order from the operations, resources, and employees, and the associated books and records, involved in the provision or marketing of any company-provided service not exempted under the regulatory exemption order or any other section of the Revised Code. 58374
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(2) An order granting regulatory exemption order issued under division (A) of this section shall prescribe a functional separation plan for compliance with division ~~(B)(D)(1)~~ of this 58386
58387
58388

section. 58389

~~(C)~~(E)(1) No natural gas company subject to an a regulatory 58390
exemption order issued under division (A) of this section may use 58391
the company's storage ~~facilities and or~~ gathering lines facilities 58392
associated with the regulatory exemption ~~order~~ to provide a 58393
commodity sales service that is unregulated or subject to an 58394
exemption order issued under section 4929.04 of the Revised Code. 58395
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(2) Upon application to the commission by a natural gas 58397
company and upon a finding of good cause shown, the commission 58398
may, by order, waive the prohibition described in division 58399
~~(C)~~(E)(1) of this section. The natural gas company shall bear the 58400
burden of proof that the waiver is just and reasonable, which 58401
shall constitute good cause. 58402

~~(D)~~(F) The commission shall have continuous jurisdiction to 58403
enforce any terms that it imposes in an a regulatory exemption 58404
order issued under division (A) of this section. Whenever the 58405
commission is of the opinion, after hearing had upon complaint or 58406
upon its own initiative or complaint, served as provided in 58407
section 4905.26 of the Revised Code, that an a regulatory 58408
exemption order issued under division (A) of this section has 58409
adversely affected the quality, adequacy, or sufficiency of 58410
service provided by the company subject to the regulatory 58411
exemption ~~order~~, the commission may alter, amend, or suspend the 58412
regulatory exemption ~~order~~. 58413

Sec. 4933.18. (A) In a prosecution for a theft offense, as 58414
defined in section 2913.01 of the Revised Code, that involves 58415
alleged tampering with a gas, electric, steam, or water meter, 58416
conduit, or attachment of a utility that has been disconnected by 58417
the utility, proof that a meter, conduit, or attachment of a 58418
utility has been tampered with is prima-facie evidence that the 58419

person who is obligated to pay for the service rendered through 58420
the meter, conduit, or attachment and is in possession or control 58421
of the meter, conduit, or attachment at the time the tampering 58422
occurred has caused the tampering with intent to commit a theft 58423
offense. 58424

In a prosecution for a theft offense, as defined in section 58425
2913.01 of the Revised Code, that involves the alleged 58426
reconnection of a gas, electric, steam, or water meter, conduit, 58427
or attachment of a utility that has been disconnected by the 58428
utility, proof that a meter, conduit, or attachment disconnected 58429
by a utility has been reconnected without the consent of the 58430
utility is prima-facie evidence that the person in possession or 58431
control of the meter, conduit, or attachment at the time of the 58432
reconnection has reconnected the meter, conduit, or attachment 58433
with intent to commit a theft offense. 58434

(B) As used in this section: 58435

(1) "Utility" means any electric light company, gas company, 58436
natural gas company, pipe-line company, water-works company, or 58437
heating or cooling company, as defined by division ~~(A)(3), (4),~~ 58438
~~(5), (6), (7)~~(C), (D), (E), (F), (G), or ~~(8)~~(H) of section 4905.03 58439
of the Revised Code, its lessees, trustees, or receivers, or any 58440
similar utility owned or operated by a political subdivision. 58441

(2) "Tamper" means to interfere with, damage, or by-pass a 58442
utility meter, conduit, or attachment with the intent to impede 58443
the correct registration of a meter or the proper functions of a 58444
conduit or attachment so as to reduce the amount of utility 58445
service that is registered on the meter. 58446

Sec. 4933.19. Each electric light company, gas company, 58447
natural gas company, pipe-line company, water-works company, or 58448
heating or cooling company, as defined by division ~~(A)(3), (4),~~ 58449
~~(5), (6), (7)~~(C), (D), (E), (F), (G), or ~~(8)~~(H) of section 58450

4905.03 of the Revised Code, or its lessees, trustees, or 58451
receivers, and each similar utility owned or operated by a 58452
political subdivision shall notify its customers, on an annual 58453
basis, that tampering with or bypassing a meter constitutes a 58454
theft offense that could result in the imposition of criminal 58455
sanctions. 58456

Sec. 4939.01. As used in sections 4939.01 to 4939.08 of the 58457
Revised Code: 58458

(A) "Cable operator," "cable service," and "franchise" have 58459
the same meanings as in the "Cable Communications Policy Act of 58460
1984," 98 Stat. 2779, 47 U.S.C.A. 522. 58461

(B) "Occupy or use" means, with respect to a public way, to 58462
place a tangible thing in a public way for any purpose, including, 58463
but not limited to, constructing, repairing, positioning, 58464
maintaining, or operating lines, poles, pipes, conduits, ducts, 58465
equipment, or other structures, appurtenances, or facilities 58466
necessary for the delivery of public utility services or any 58467
services provided by a cable operator. 58468

(C) "Person" means any natural person, corporation, or 58469
partnership and also includes any governmental entity. 58470

(D) "Public utility" means any company described in section 58471
4905.03 of the Revised Code except in divisions ~~(A)-(2)-(B)~~ and 58472
~~(9)-(I)~~ of that section, which company also is a public utility as 58473
defined in section 4905.02 of the Revised Code; and includes any 58474
electric supplier as defined in section 4933.81 of the Revised 58475
Code. 58476

(E) "Public way" means the surface of, and the space within, 58477
through, on, across, above, or below, any public street, public 58478
road, public highway, public freeway, public lane, public path, 58479
public alley, public court, public sidewalk, public boulevard, 58480

public parkway, public drive, and any other land dedicated or 58481
otherwise designated for a compatible public use, which, on or 58482
after ~~the effective date of this section~~ July 2, 2002, is owned or 58483
controlled by a municipal corporation. "Public way" excludes a 58484
private easement. 58485

(F) "Public way fee" means a fee levied to recover the costs 58486
incurred by a municipal corporation and associated with the 58487
occupancy or use of a public way. 58488

Sec. 4953.04. No union terminal company or corporation shall 58489
engage in the business of a for-hire motor transportation service 58490
carrier, as defined in ~~sections 4905.03, 4921.02, and 4923.02~~ 58491
4921.01 of the Revised Code, over any public highway in this 58492
state, without obtaining authority from the public utilities 58493
commission, and complying with all laws governing every 58494
corporation or company when engaged or proposing to engage in ~~such~~ 58495
the business of a for-hire motor transportation service carrier. 58496

Sec. 4961.03. Any railroad company owning or operating a 58497
railroad in this state may own, control, operate, or manage motor 58498
vehicles for the purpose of transporting persons or property, or 58499
both, upon the public highways for hire, subject to ~~sections~~ 58500
~~4921.02 to 4921.32, inclusive,~~ Chapters 4921. and 4923. of the 58501
Revised Code. Any railroad company may also own and operate 58502
equipment for and engage in the business of aerial transportation. 58503
Any railroad company may acquire, own, and hold capital stock and 58504
securities of corporations organized for or engaged in the 58505
businesses authorized in this section and may operate the 58506
properties, or any part thereof, of such corporations, and may 58507
enter into working arrangements and agreements with such 58508
corporations. 58509

Sec. 4965.54. Any common carrier, railroad, or ~~transportation~~ 58510

~~company~~ motor carrier receiving property at a point within this 58511
state for transportation to a point within this state, shall issue 58512
a receipt or bill of lading for such property and is liable to the 58513
lawful holder of it for any loss, damage, or injury to such 58514
property caused by it or by any common carrier, railroad, or 58515
transportation company to which such property is delivered or over 58516
whose line such property passes. No contract, receipt, rule, or 58517
regulation shall exempt such common carrier, railroad, or 58518
~~transportation company~~ motor carrier from the liability imposed by 58519
this section. This section does not deprive any holder of such 58520
receipt or bill of lading of any remedy or right of action which 58521
~~he~~ the holder has under existing law. 58522

The common carrier, railroad, or ~~transportation company~~ motor 58523
carrier issuing such receipt or bill of lading may recover from 58524
the common carrier, railroad, or ~~transportation company~~ motor 58525
carrier on whose line the loss, damage, or injury was sustained 58526
the amount of such loss, damage, or injury it is required to pay 58527
the owners of such property as is evidenced by any receipt, 58528
judgment, or transcript thereof. 58529

As used in this section, "motor carrier" has the same meaning 58530
as in section 4923.01 of the Revised Code. 58531

Sec. 5101.46. (A) As used in this section: 58532

(1) "Title XX" means Title XX of the "Social Security Act," 58533
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 58534

(2) "Respective local agency" means, with respect to the 58535
department of job and family services, a county department of job 58536
and family services; with respect to the department of mental 58537
health, a board of alcohol, drug addiction, and mental health 58538
services; and with respect to the department of developmental 58539
disabilities, a county board of developmental disabilities. 58540

(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.

(B) The departments of job and family services, mental health, and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(C)(1) All federal funds received under Title XX shall be appropriated as follows:

(a) Seventy-two and one-half per cent to the department of job and family services;

(b) Twelve and ninety-three ~~one-hundredths~~ one-hundredths per

cent to the department of mental health; 58571

(c) Fourteen and fifty-seven ~~one-hundredths~~ one-hundredths per 58572
cent to the department of developmental disabilities. 58573

(2) Each of the state departments shall, subject to the 58574
approval of the controlling board, develop a formula for the 58575
distribution of the Title XX funds appropriated to the department 58576
to its respective local agencies. The formula developed by each 58577
state department shall take into account all of the following for 58578
each of its respective local agencies: 58579

(a) The total population of the area that is served by the 58580
respective local agency; 58581

(b) The percentage of the population in the area served that 58582
falls below the federal poverty guidelines; 58583

(c) The respective local agency's history of and ability to 58584
utilize Title XX funds. 58585

(3) Each of the state departments shall expend for state 58586
administrative costs not more than three per cent of the Title XX 58587
funds appropriated to the department. 58588

Each state department shall establish for each of its 58589
respective local agencies the maximum percentage of the Title XX 58590
funds distributed to the respective local agency that the 58591
respective local agency may expend for local administrative costs. 58592
The percentage shall be established by rule and shall comply with 58593
federal law governing the use of Title XX funds. The rules shall 58594
be adopted in accordance with section 111.15 of the Revised Code 58595
as if they were internal management rules. 58596

(4) The department of job and family services shall expend 58597
for the training of the following not more than two per cent of 58598
the Title XX funds appropriated to the department: 58599

(a) Employees of county departments of job and family 58600

services; 58601

(b) Providers of services under contract with the state 58602
departments' respective local agencies; 58603

(c) Employees of a public children services agency directly 58604
engaged in providing Title XX services. 58605

(D) The department of job and family services shall prepare a 58606
~~biennial~~ an annual comprehensive Title XX social services plan on 58607
the intended use of Title XX funds. The department shall develop a 58608
method for obtaining public comment during the development of the 58609
plan and following its completion. 58610

For each ~~state~~ federal fiscal year, the department of job and 58611
family services shall prepare a report on the actual use of Title 58612
XX funds. The department shall make the annual report available 58613
for public inspection. 58614

The departments of mental health and developmental 58615
disabilities shall prepare and submit to the department of job and 58616
family services the portions of each ~~biennial~~ annual plan and 58617
~~annual~~ report that apply to services for mental health and mental 58618
retardation and developmental disabilities. Each respective local 58619
agency of the three state departments shall submit information as 58620
necessary for the preparation of ~~biennial~~ annual plans and ~~annual~~ 58621
reports. 58622

(E) Each county department of job and family services shall 58623
adopt a county profile for the administration and provision of 58624
Title XX social services in the county. In developing its county 58625
profile, the county department shall take into consideration the 58626
comments and recommendations received from the public by the 58627
county family services planning committee pursuant to section 58628
329.06 of the Revised Code. As part of its preparation of the 58629
county profile, the county department may prepare a local needs 58630
report analyzing the need for Title XX social services. 58631

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider.

(G) Except with respect to the matters for which each of the state departments must adopt rules under division (C)(3) of this section, the department of job and family services may adopt any rules it considers necessary to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section

111.15 of the Revised Code. Rules governing eligibility for 58664
services, program participation, and other matters pertaining to 58665
applicants and participants shall be adopted in accordance with 58666
Chapter 119. of the Revised Code. 58667

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the 58668
Revised Code: 58669

(A) "Abuse" means the infliction upon an adult by self or 58670
others of injury, unreasonable confinement, intimidation, or cruel 58671
punishment with resulting physical harm, pain, or mental anguish. 58672

(B) "Adult" means any person sixty years of age or older 58673
within this state who is handicapped by the infirmities of aging 58674
or who has a physical or mental impairment which prevents the 58675
person from providing for the person's own care or protection, and 58676
who resides in an independent living arrangement. An "independent 58677
living arrangement" is a domicile of a person's own choosing, 58678
including, but not limited to, a private home, apartment, trailer, 58679
or rooming house. An "independent living arrangement" includes ~~an~~ 58680
~~adult care~~ a residential facility licensed ~~pursuant to Chapter~~ 58681
~~5119.~~ under section 5119.22 of the Revised Code that provides 58682
accommodations, supervision, and personal care services for three 58683
to sixteen unrelated adults, but does not include other 58684
institutions or facilities licensed by the state or facilities in 58685
which a person resides as a result of voluntary, civil, or 58686
criminal commitment. 58687

(C) "Caretaker" means the person assuming the responsibility 58688
for the care of an adult on a voluntary basis, by contract, 58689
through receipt of payment for care, as a result of a family 58690
relationship, or by order of a court of competent jurisdiction. 58691

(D) "Court" means the probate court in the county where an 58692
adult resides. 58693

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain.

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult. 58725
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(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. 58727
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(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. 58738
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Sec. 5101.61. (A) As used in this section: 58741

(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. 58742
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(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that: 58745
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(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients; 58748
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(b) Has health and medical care policies which are developed 58754

with the advice of, and with the provision of review of such 58755
policies, an advisory committee of professional personnel, 58756
including one or more physicians, one or more dentists, if dental 58757
care is provided, and one or more registered nurses; 58758

(c) Has a medical director, a dental director, if dental care 58759
is provided, and a nursing director responsible for the execution 58760
of such policies, and has physicians, dentists, nursing, and 58761
ancillary staff appropriate to the scope of services provided; 58762

(d) Requires that the health care and medical care of every 58763
patient be under the supervision of a physician, provides for 58764
medical care in a case of emergency, has in effect a written 58765
agreement with one or more hospitals and other centers or clinics, 58766
and has an established patient referral system to other resources, 58767
and a utilization review plan and program; 58768

(e) Maintains clinical records on all patients; 58769

(f) Provides nursing services and other therapeutic services 58770
in accordance with programs and policies, with such services 58771
supervised by a registered professional nurse, and has a 58772
registered professional nurse on duty at all times of clinical 58773
operations; 58774

(g) Provides approved methods and procedures for the 58775
dispensing and administration of drugs and biologicals; 58776

(h) Has established an accounting and record keeping system 58777
to determine reasonable and allowable costs; 58778

(i) "Ambulatory health facilities" also includes an 58779
alcoholism treatment facility approved by the joint commission on 58780
accreditation of healthcare organizations as an alcoholism 58781
treatment facility or certified by the department of alcohol and 58782
drug addiction services, and such facility shall comply with other 58783
provisions of this division not inconsistent with such 58784
accreditation or certification. 58785

(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

(a) Is primarily engaged in providing home health services;

(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;

(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;

(d) Maintains comprehensive records on all patients;

(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

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| (6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home: | 58817 58818 58819 58820 |
| (a) Nursing care provided by or under the supervision of a registered professional nurse; | 58821 58822 |
| (b) Physical, occupational, or speech therapy ordered by the patient's attending physician; | 58823 58824 |
| (c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician; | 58825 58826 58827 |
| (d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse; | 58828 58829 58830 |
| (e) Medical supplies and the use of medical appliances; | 58831 |
| (f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician; | 58832 58833 58834 58835 |
| (g) Any of the foregoing items and services which: | 58836 |
| (i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility; | 58837 58838 58839 |
| (ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment. | 58840 58841 58842 58843 58844 |
| Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in | 58845 58846 |

section 3701.01 of the Revised Code, any nurse licensed under 58847
Chapter 4723. of the Revised Code, any employee of an ambulatory 58848
health facility, any employee of a home health agency, any 58849
employee of ~~an adult care~~ a residential facility as defined in 58850
licensed under section ~~5119.70~~ 5119.22 of the Revised Code that 58851
provides accommodations, supervision, and personal care services 58852
for three to sixteen unrelated adults, any employee of a nursing 58853
home, residential care facility, or home for the aging, as defined 58854
in section 3721.01 of the Revised Code, any senior service 58855
provider, any peace officer, coroner, ~~clergyman~~ member of the 58856
clergy, any employee of a community mental health facility, and 58857
any person engaged in social work or counseling having reasonable 58858
cause to believe that an adult is being abused, neglected, or 58859
exploited, or is in a condition which is the result of abuse, 58860
neglect, or exploitation shall immediately report such belief to 58861
the county department of job and family services. This section 58862
does not apply to employees of any hospital or public hospital as 58863
defined in section 5122.01 of the Revised Code. 58864

(B) Any person having reasonable cause to believe that an 58865
adult has suffered abuse, neglect, or exploitation may report, or 58866
cause reports to be made of such belief to the department. 58867

(C) The reports made under this section shall be made orally 58868
or in writing except that oral reports shall be followed by a 58869
written report if a written report is requested by the department. 58870
Written reports shall include: 58871

(1) The name, address, and approximate age of the adult who 58872
is the subject of the report; 58873

(2) The name and address of the individual responsible for 58874
the adult's care, if any individual is, and if the individual is 58875
known; 58876

(3) The nature and extent of the alleged abuse, neglect, or 58877

exploitation of the adult; 58878

(4) The basis of the reporter's belief that the adult has 58879
been abused, neglected, or exploited. 58880

(D) Any person with reasonable cause to believe that an adult 58881
is suffering abuse, neglect, or exploitation who makes a report 58882
pursuant to this section or who testifies in any administrative or 58883
judicial proceeding arising from such a report, or any employee of 58884
the state or any of its subdivisions who is discharging 58885
responsibilities under section 5101.62 of the Revised Code shall 58886
be immune from civil or criminal liability on account of such 58887
investigation, report, or testimony, except liability for perjury, 58888
unless the person has acted in bad faith or with malicious 58889
purpose. 58890

(E) No employer or any other person with the authority to do 58891
so shall discharge, demote, transfer, prepare a negative work 58892
performance evaluation, or reduce benefits, pay, or work 58893
privileges, or take any other action detrimental to an employee or 58894
in any way retaliate against an employee as a result of the 58895
employee's having filed a report under this section. 58896

(F) Neither the written or oral report provided for in this 58897
section nor the investigatory report provided for in section 58898
5101.62 of the Revised Code shall be considered a public record as 58899
defined in section 149.43 of the Revised Code. Information 58900
contained in the report shall upon request be made available to 58901
the adult who is the subject of the report, to agencies authorized 58902
by the department to receive information contained in the report, 58903
and to legal counsel for the adult. 58904

Sec. 5104.012. (A)(1) At the times specified in this 58905
division, the administrator of a child day-care center or a type A 58906
family day-care home shall request the superintendent of the 58907
bureau of criminal identification and investigation to conduct a 58908

criminal records check with respect to any applicant who has 58909
applied to the center or type A home for employment as a person 58910
responsible for the care, custody, or control of a child. 58911

The administrator shall request a criminal records check 58912
pursuant to this division at the time of the applicant's initial 58913
application for employment and every four years thereafter. When 58914
the administrator requests pursuant to this division a criminal 58915
records check for an applicant at the time of the applicant's 58916
initial application for employment, the administrator shall 58917
request that the superintendent obtain information from the 58918
federal bureau of investigation as a part of the criminal records 58919
check for the applicant, including fingerprint-based checks of 58920
national crime information databases as described in 42 U.S.C. 58921
671, for the person subject to the criminal records check. In all 58922
other cases in which the administrator requests a criminal records 58923
check for an applicant pursuant to this division, the 58924
administrator may request that the superintendent include 58925
information from the federal bureau of investigation in the 58926
criminal records check, including fingerprint-based checks of 58927
national crime information databases as described in 42 U.S.C. 58928
671. 58929

(2) A person required by division (A)(1) of this section to 58930
request a criminal records check shall provide to each applicant a 58931
copy of the form prescribed pursuant to division (C)(1) of section 58932
109.572 of the Revised Code, provide to each applicant a standard 58933
impression sheet to obtain fingerprint impressions prescribed 58934
pursuant to division (C)(2) of section 109.572 of the Revised 58935
Code, obtain the completed form and impression sheet from each 58936
applicant, and forward the completed form and impression sheet to 58937
the superintendent of the bureau of criminal identification and 58938
investigation at the time the person requests a criminal records 58939
check pursuant to division (A)(1) of this section. On and after 58940

August 14, 2008, the administrator of a child day-care center or a type A family day-care home shall review the results of the criminal records check before the applicant has sole responsibility for the care, custody, or control of any child.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)~~(9)~~(6) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the center or home shall release the applicant from

employment. 58973

(C)(1) Each child day-care center and type A family day-care 58974
home shall pay to the bureau of criminal identification and 58975
investigation the fee prescribed pursuant to division (C)(3) of 58976
section 109.572 of the Revised Code for each criminal records 58977
check conducted in accordance with that section upon the request 58978
pursuant to division (A)(1) of this section of the administrator 58979
or provider of the center or home. 58980

(2) A child day-care center and type A family day-care home 58981
may charge an applicant a fee for the costs it incurs in obtaining 58982
a criminal records check under this section. A fee charged under 58983
this division shall not exceed the amount of fees the center or 58984
home pays under division (C)(1) of this section. If a fee is 58985
charged under this division, the center or home shall notify the 58986
applicant at the time of the applicant's initial application for 58987
employment of the amount of the fee and that, unless the fee is 58988
paid, the center or type A home will not consider the applicant 58989
for employment. 58990

(D) The report of any criminal records check conducted by the 58991
bureau of criminal identification and investigation in accordance 58992
with section 109.572 of the Revised Code and pursuant to a request 58993
under division (A)(1) of this section is not a public record for 58994
the purposes of section 149.43 of the Revised Code and shall not 58995
be made available to any person other than the applicant who is 58996
the subject of the criminal records check or the applicant's 58997
representative; the center or type A home requesting the criminal 58998
records check or its representative; the department of job and 58999
family services or a county department of job and family services; 59000
and any court, hearing officer, or other necessary individual 59001
involved in a case dealing with the denial of employment to the 59002
applicant. 59003

(E) The director of job and family services shall adopt rules 59004

pursuant to Chapter 119. of the Revised Code to implement this 59005
section, including rules specifying circumstances under which a 59006
center or home may hire a person who has been convicted of an 59007
offense listed in division (B)(1) of this section but who meets 59008
standards in regard to rehabilitation set by the department. 59009

(F) Any person required by division (A)(1) of this section to 59010
request a criminal records check shall inform each person, at the 59011
time of the person's initial application for employment, that the 59012
person is required to provide a set of impressions of the person's 59013
fingerprints and that a criminal records check is required to be 59014
conducted and satisfactorily completed in accordance with section 59015
109.572 of the Revised Code if the person comes under final 59016
consideration for appointment or employment as a precondition to 59017
employment for that position. 59018

(G) As used in this section: 59019

(1) "Applicant" means a person who is under final 59020
consideration for appointment to or employment in a position with 59021
a child day-care center or a type A family day-care home as a 59022
person responsible for the care, custody, or control of a child; 59023
an in-home aide certified pursuant to section 5104.12 of the 59024
Revised Code; or any person who would serve in any position with a 59025
child day-care center or a type A family day-care home as a person 59026
responsible for the care, custody, or control of a child pursuant 59027
to a contract with another entity. 59028

(2) "Criminal records check" has the same meaning as in 59029
section 109.572 of the Revised Code. 59030

Sec. 5104.013. (A)(1) At the times specified in division 59031
(A)(3) of this section, the director of job and family services, 59032
as part of the process of licensure of child day-care centers and 59033
type A family day-care homes, shall request the superintendent of 59034
the bureau of criminal identification and investigation to conduct 59035

a criminal records check with respect to the following persons: 59036

(a) Any owner, licensee, or administrator of a child day-care center; 59037
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(b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home. 59039
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(2) At the times specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person eighteen years of age or older who resides in a certified type B family day-care home. 59042
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(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every four years thereafter. The director of a county department of job and family services shall request a criminal records check pursuant to division (A)(2) of this section at the time of the initial application for certification and every four years thereafter at the time of a certification renewal. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime 59051
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information databases as described in 42 U.S.C. 671 for the person 59068
subject to the criminal records check. In all other cases in which 59069
the director of job and family services or the director of a 59070
county department of job and family services requests a criminal 59071
records check for an applicant pursuant to division (A)(1) or (2) 59072
of this section, the director may request that the superintendent 59073
include information from the federal bureau of investigation in 59074
the criminal records check, including fingerprint-based checks of 59075
national crime information databases as described in 42 U.S.C. 59076
671. 59077

(4) The director of job and family services shall review the 59078
results of a criminal records check subsequent to a request made 59079
pursuant to divisions (A)(1) and (3) of this section prior to 59080
approval of a license. The director of a county department of job 59081
and family services shall review the results of a criminal records 59082
check subsequent to a request made pursuant to divisions (A)(2) 59083
and (3) of this section prior to approval of certification. 59084

(B) The director of job and family services or the director 59085
of a county department of job and family services shall provide to 59086
each person for whom a criminal records check is required under 59087
this section a copy of the form prescribed pursuant to division 59088
(C)(1) of section 109.572 of the Revised Code and a standard 59089
impression sheet to obtain fingerprint impressions prescribed 59090
pursuant to division (C)(2) of that section, obtain the completed 59091
form and impression sheet from that person, and forward the 59092
completed form and impression sheet to the superintendent of the 59093
bureau of criminal identification and investigation. 59094

(C) A person who receives pursuant to division (B) of this 59095
section a copy of the form and standard impression sheet described 59096
in that division and who is requested to complete the form and 59097
provide a set of fingerprint impressions shall complete the form 59098
or provide all the information necessary to complete the form and 59099

shall provide the impression sheet with the impressions of the 59100
person's fingerprints. If the person, upon request, fails to 59101
provide the information necessary to complete the form or fails to 59102
provide impressions of the person's fingerprints, the director may 59103
consider the failure as a reason to deny licensure or 59104
certification. 59105

(D) Except as provided in rules adopted under division (G) of 59106
this section, the director of job and family services shall not 59107
grant a license to a child day-care center or type A family 59108
day-care home and a county director of job and family services 59109
shall not certify a type B family day-care home if a person for 59110
whom a criminal records check was required in connection with the 59111
center or home previously has been convicted of or pleaded guilty 59112
to any of the violations described in division (A)~~(9)~~(6) of 59113
section 109.572 of the Revised Code. 59114

(E) Each child day-care center, type A family day-care home, 59115
and type B family day-care home shall pay to the bureau of 59116
criminal identification and investigation the fee prescribed 59117
pursuant to division (C)(3) of section 109.572 of the Revised Code 59118
for each criminal records check conducted in accordance with that 59119
section upon a request made pursuant to division (A) of this 59120
section. 59121

(F) The report of any criminal records check conducted by the 59122
bureau of criminal identification and investigation in accordance 59123
with section 109.572 of the Revised Code and pursuant to a request 59124
made under division (A) of this section is not a public record for 59125
the purposes of section 149.43 of the Revised Code and shall not 59126
be made available to any person other than the person who is the 59127
subject of the criminal records check or the person's 59128
representative, the director of job and family services, the 59129
director of a county department of job and family services, the 59130
center, type A home, or type B home involved, and any court, 59131

hearing officer, or other necessary individual involved in a case 59132
dealing with a denial of licensure or certification related to the 59133
criminal records check. 59134

(G) The director of job and family services shall adopt rules 59135
pursuant to Chapter 119. of the Revised Code to implement this 59136
section, including rules specifying exceptions to the prohibition 59137
in division (D) of this section for persons who have been 59138
convicted of an offense listed in that division but who meet 59139
standards in regard to rehabilitation set by the ~~department~~ 59140
director. 59141

(H) As used in this section, "criminal records check" has the 59142
same meaning as in section 109.572 of the Revised Code. 59143

Sec. 5104.051. (A)(1) The department of commerce is 59144
responsible for the inspections of child day-care centers as 59145
required by division (A)(1) of section 5104.05 of the Revised 59146
Code. Where there is a municipal, township, or county building 59147
department certified under section 3781.10 of the Revised Code to 59148
exercise enforcement authority with respect to the category of 59149
building occupancy which includes day-care centers, all 59150
inspections required under division (A)(1) of section 5104.05 of 59151
the Revised Code shall be made by that department according to the 59152
standards established by the board of building standards. 59153
Inspections in areas of the state where there is no municipal, 59154
township, or county building department certified under section 59155
3781.10 of the Revised Code to exercise enforcement authority with 59156
respect to the category of building occupancy which includes 59157
day-care centers shall be made by personnel of the department of 59158
commerce. Inspections of centers shall be contingent upon payment 59159
of a fee by the applicant to the department having jurisdiction to 59160
inspect. 59161

(2) The department of commerce is responsible for the 59162

inspections of type A family day-care homes as required by 59163
division (B)(3) of section 5104.05 of the Revised Code. Where 59164
there is a municipal, township, or county building department 59165
certified under section 3781.10 of the Revised Code to exercise 59166
enforcement authority with respect to the category of building 59167
occupancy which includes type A homes, all inspections required 59168
under division (B)(3) of section 5104.05 of the Revised Code shall 59169
be made by that department according to the standards established 59170
by the board of building standards. Inspections in areas of the 59171
state where there is no municipal, township, or county building 59172
department certified under section 3781.10 of the Revised Code to 59173
exercise enforcement authority with respect to the category of 59174
building occupancy which includes type A homes shall be made by 59175
personnel of the department of commerce. Inspections of type A 59176
homes shall be contingent upon payment of a fee by the applicant 59177
to the department having jurisdiction to inspect. 59178

(B) The state fire marshal is responsible for the inspections 59179
required by divisions (A)(2) and (B)(1) of section 5104.05 of the 59180
Revised Code. In municipal corporations and in townships outside 59181
municipal corporations where there is a fire prevention official, 59182
the inspections shall be made by the fire chief or the fire 59183
prevention official under the supervision of and according to the 59184
standards established by the state fire marshal. In townships 59185
outside municipal corporations where there is no fire prevention 59186
official, inspections shall be made by the employees of the state 59187
fire marshal. 59188

(C) The state fire marshal shall enforce all statutes and 59189
rules pertaining to fire safety and fire prevention in child 59190
day-care centers and type A family day-care homes. In the event of 59191
a dispute between the state fire marshal and any other responsible 59192
officer under sections 5104.05 and 5104.051 of the Revised Code 59193
with respect to the interpretation or application of a specific 59194

fire safety statute or rule, the interpretation of the state fire marshal shall prevail. 59195
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(D) As used in this division, "licensor" has the same meaning as in section 3717.01 of the Revised Code. 59197
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The licensor for food service operations in the city or general health district in which the center is located is responsible for the inspections required under Chapter 3717. of the Revised Code. 59199
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(E) Any moneys collected by the department of commerce under this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code. 59203
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Sec. 5104.09. (A)(1) Except as provided in rules adopted pursuant to division (D) of this section, no individual who has been convicted of or pleaded guilty to a violation described in division (A)~~(9)~~(6) of section 109.572 of the Revised Code, a violation of section 2905.11, 2909.02, 2909.03, 2909.04, 2909.05, 2917.01, 2917.02, 2917.03, 2917.31, 2921.03, 2921.34, or 2921.35 of the Revised Code or a violation of an existing or former law or ordinance of any municipal corporation, this state, any other state, or the United States that is substantially equivalent to any of those violations, or two violations of section 4511.19 of the Revised Code during operation of the center or home shall be certified as an in-home aide or be employed in any capacity in or own or operate a child day-care center, type A family day-care home, type B family day-care home, or certified type B family day-care home. 59207
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(2) Each employee of a child day-care center and type A home and every person eighteen years of age or older residing in a type A home shall sign a statement on forms prescribed by the director of job and family services attesting to the fact that the employee 59222
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or resident person has not been convicted of or pleaded guilty to 59226
any offense set forth in division (A)(1) of this section and that 59227
no child has been removed from the employee's or resident person's 59228
home pursuant to section 2151.353 of the Revised Code. Each 59229
licensee of a type A home shall sign a statement on a form 59230
prescribed by the director attesting to the fact that no person 59231
who resides at the type A home and who is under the age of 59232
eighteen has been adjudicated a delinquent child for committing a 59233
violation of any section listed in division (A)(1) of this 59234
section. The statements shall be kept on file at the center or 59235
type A home. 59236

(3) Each in-home aide and every person eighteen years of age 59237
or older residing in a certified type B home shall sign a 59238
statement on forms prescribed by the director of job and family 59239
services attesting that the aide or resident person has not been 59240
convicted of or pleaded guilty to any offense set forth in 59241
division (A)(1) of this section and that no child has been removed 59242
from the aide's or resident person's home pursuant to section 59243
2151.353 of the Revised Code. Each authorized provider shall sign 59244
a statement on forms prescribed by the director attesting that the 59245
provider has not been convicted of or pleaded guilty to any 59246
offense set forth in division (A)(1) of this section and that no 59247
child has been removed from the provider's home pursuant to 59248
section 2151.353 of the Revised Code. Each authorized provider 59249
shall sign a statement on a form prescribed by the director 59250
attesting to the fact that no person who resides at the certified 59251
type B home and who is under the age of eighteen has been 59252
adjudicated a delinquent child for committing a violation of any 59253
section listed in division (A)(1) of this section. The statements 59254
shall be kept on file at the county department of job and family 59255
services. 59256

(4) Each administrator and licensee of a center or type A 59257

home shall sign a statement on a form prescribed by the director 59258
of job and family services attesting that the administrator or 59259
licensee has not been convicted of or pleaded guilty to any 59260
offense set forth in division (A)(1) of this section and that no 59261
child has been removed from the administrator's or licensee's home 59262
pursuant to section 2151.353 of the Revised Code. The statement 59263
shall be kept on file at the center or type A home. 59264

(B) No in-home aide, no administrator, licensee, authorized 59265
provider, or employee of a center, type A home, or certified type 59266
B home, and no person eighteen years of age or older residing in a 59267
type A home or certified type B home shall withhold information 59268
from, or falsify information on, any statement required pursuant 59269
to division (A)(2), (3), or (4) of this section. 59270

(C) No administrator, licensee, or child-care staff member 59271
shall discriminate in the enrollment of children in a child 59272
day-care center upon the basis of race, color, religion, sex, or 59273
national origin. 59274

(D) The director of job and family services shall adopt rules 59275
pursuant to Chapter 119. of the Revised Code to implement this 59276
section, including rules specifying exceptions to the prohibition 59277
in division (A) of this section for persons who have been 59278
convicted of an offense listed in that division but meet 59279
rehabilitation standards set by the ~~department~~ director. 59280

Sec. 5104.37. (A) As used in this section, "eligible 59281
provider" means an individual or entity eligible to provide 59282
publicly funded child care pursuant to section 5104.31 of the 59283
Revised Code. 59284

(B) The department of job and family services may withhold 59285
any money due, under this chapter and recover through any 59286
appropriate method any money erroneously paid, under this chapter 59287
if evidence exists of less than full compliance with this chapter 59288

and any rules adopted under it. 59289

(C) Notwithstanding any other provision of this chapter to 59290
the contrary, the department shall take action against an eligible 59291
provider as described in this section. 59292

(D) The department immediately shall suspend a contract 59293
entered into with an eligible provider under section 5104.32 of 59294
the Revised Code when the department initiates an investigation 59295
concerning the eligible provider for either of the following 59296
reasons: 59297

(1) The eligible provider receives an improper child care 59298
payment. 59299

(2) The department receives notice and a copy of an 59300
indictment, information, or complaint charging the eligible 59301
provider or the owner or operator of the provider with committing 59302
any of the following: 59303

(a) An act that is a felony or misdemeanor relating to 59304
providing or billing for publicly funded child care or providing 59305
management or administrative services relating to providing 59306
publicly funded child care; 59307

(b) An act that would constitute an offense described in 59308
section 5104.09 of the Revised Code. 59309

(E)(1) Except as provided in division (E)(2) of this section, 59310
the suspension of a contract under division (D) of this section 59311
shall continue until the department completes its investigation or 59312
all criminal charges are disposed of through dismissal, a finding 59313
of not guilty, conviction, or a plea of guilty. 59314

(2) If the department initiates the termination of a contract 59315
that has been suspended pursuant to division (D) of this section, 59316
the suspension shall continue until the termination process is 59317
completed. 59318

(F) An eligible provider shall not provide publicly funded child care while the provider's contract is under suspension pursuant to division (D) of this section. As of the date the eligible provider's contract is suspended, the department shall withhold payment to the eligible provider for publicly funded child care. 59319
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(G) Not later than five days after suspending an eligible provider's contract pursuant to division (D) of this section, the department shall notify the eligible provider. The notice shall include all of the following: 59325
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(1) A description of the investigation or indictment, information, or complaint that resulted in the suspension, which need not disclose specific information concerning any ongoing administrative or criminal investigation; 59329
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(2) A statement that the eligible provider is prohibited from providing publicly funded child care while the contract is under suspension; 59333
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(3) A statement that the suspension will continue until the department completes its investigation or all criminal charges are disposed of through dismissal, a finding of not guilty, conviction, or a plea of guilty, and that if the department initiates the termination of the contract, the suspension will continue until the termination process is completed. 59336
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Sec. 5107.05. The director of job and family services shall adopt rules to implement this chapter. The rules shall be consistent with Title IV-A, Title IV-D, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the plan, and waivers granted by the United States secretary. Rules governing eligibility, program participation, and other applicant and participant requirements 59342
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shall be adopted in accordance with Chapter 119. of the Revised Code. Rules governing financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code.

(A) The rules shall specify, establish, or govern all of the following:

(1) A payment standard for Ohio works first based on federal and state appropriations that is increased in accordance with section 5107.04 of the Revised Code;

(2) For the purpose of section 5107.04 of the Revised Code, the method of determining the amount of cash assistance an assistance group receives under Ohio works first;

(3) Requirements for initial and continued eligibility for Ohio works first, including requirements regarding income, citizenship, age, residence, and assistance group composition;

(4) For the purpose of section 5107.12 of the Revised Code, application and verification procedures, including the minimum information an application must contain;

(5) The extent to which a participant of Ohio works first must notify, pursuant to section 5107.12 of the Revised Code, a county department of job and family services of additional income not previously reported to the county department;

(6) For the purpose of section 5107.16 of the Revised Code, all of the following:

(a) Standards for the determination of good cause for failure or refusal to comply in full with a provision of a self-sufficiency contract;

(b) The compliance form a member of an assistance group may complete to indicate willingness to come into full compliance with

a provision of a self-sufficiency contract; 59380

(c) The manner by which the compliance form is to be 59381
completed and provided to a county department of job and family 59382
services. 59383

(7) The department of job and family services providing 59384
written notice of a sanction under section 5107.161 of the Revised 59385
Code; 59386

(8) For the purpose of division (A)(2) of section 5107.17 of 59387
the Revised Code, the period of time by which a county department 59388
of job and family services is to receive a compliance form 59389
established in rules adopted under division (A)(6)(b) of this 59390
section; 59391

(9) Requirements for the collection and distribution of 59392
support payments owed participants of Ohio works first pursuant to 59393
section 5107.20 of the Revised Code; 59394

(10) For the purpose of section 5107.22 of the Revised Code, 59395
what constitutes cooperating in establishing a minor child's 59396
paternity or establishing, modifying, or enforcing a child support 59397
order and good cause for failure or refusal to cooperate; 59398

(11) The requirements governing the LEAP program, including 59399
the definitions of "equivalent of a high school diploma" and "good 59400
cause," and the incentives provided under the LEAP program; 59401

(12) If the director implements section 5107.301 of the 59402
Revised Code, the requirements governing the award provided under 59403
that section, including the form that the award is to take and 59404
requirements an individual must satisfy to receive the award; 59405

(13) Circumstances under which a county department of job and 59406
family services may exempt a minor head of household or adult from 59407
participating in a work activity or developmental activity for all 59408
or some of the weekly hours otherwise required by section 5107.43 59409

of the Revised Code. 59410

(14) The maximum amount of time the department will subsidize 59411
positions created by state agencies and political subdivisions 59412
under division (C) of section 5107.52 of the Revised Code; 59413

(15) The implementation of sections 5107.71 to 5107.717 of 59414
the Revised Code by county departments of job and family services; 59415

(16) A domestic violence screening process to be used for the 59416
purpose of division (A) of section 5107.71 of the Revised Code; 59417

(17) The minimum frequency with which county departments of 59418
job and family services must redetermine a member of an assistance 59419
group's need for a waiver issued under section 5107.714 of the 59420
Revised Code. 59421

(B) The rules adopted under division (A)(3) of this section 59422
regarding income shall specify what is countable income, gross 59423
earned income, and gross unearned income for the purpose of 59424
section 5107.10 of the Revised Code. 59425

The rules adopted under division (A)(10) of this section 59426
shall be consistent with 42 U.S.C. 654(29). 59427

The rules adopted under division (A)(13) of this section 59428
shall specify that the circumstances include that a school or 59429
place of work is closed due to a holiday or weather or other 59430
emergency and that an employer grants the minor head of household 59431
or adult leave for illness or earned vacation. 59432

(C) The rules may provide that a county department of job and 59433
family services is not required to take action under section 59434
5107.76 of the Revised Code to recover an erroneous payment ~~that~~ 59435
~~is below an amount the department specifies~~ under circumstances 59436
the rules specify. 59437

Sec. 5111.031. (A) As used in this section: 59438

(1) "Independent provider" has the same meaning as in section 59439
5111.034 of the Revised Code. 59440

(2) "Intermediate care facility for the mentally retarded" 59441
and "nursing facility" have the same meanings as in section 59442
5111.20 of the Revised Code. 59443

(3) "Noninstitutional medicaid provider" means any person or 59444
entity with a medicaid provider agreement other than a hospital, 59445
nursing facility, or intermediate care facility for the mentally 59446
retarded. 59447

(4) "Owner" means any person having at least five per cent 59448
ownership in a noninstitutional medicaid provider. 59449

(B) Notwithstanding any provision of this chapter to the 59450
contrary, the department of job and family services shall take 59451
action under this section against a noninstitutional medicaid 59452
provider or its owner, officer, authorized agent, associate, 59453
manager, or employee. 59454

(C) Except as provided in division (D) of this section and in 59455
rules adopted by the department under division (H) of this 59456
section, on receiving notice and a copy of an indictment that is 59457
issued on or after September 29, 2007, and charges a 59458
noninstitutional medicaid provider or its owner, officer, 59459
authorized agent, associate, manager, or employee with committing 59460
an offense specified in division (E) of this section, the 59461
department shall suspend the provider agreement held by the 59462
noninstitutional medicaid provider. Subject to division (D) of 59463
this section, the department shall also terminate medicaid 59464
reimbursement to the provider for services rendered. 59465

The suspension shall continue in effect until the proceedings 59466
in the criminal case are completed through dismissal of the 59467
indictment or through conviction, entry of a guilty plea, or 59468
finding of not guilty. If the department commences a process to 59469

terminate the suspended provider agreement, the suspension shall 59470
also continue in effect until the termination process is 59471
concluded. 59472

Pursuant to section 5111.06 of the Revised Code, the 59473
department is not required to take action under this division by 59474
issuing an order pursuant to an adjudication conducted in 59475
accordance with Chapter 119. of the Revised Code. 59476

When subject to a suspension under this division, a provider, 59477
owner, officer, authorized agent, associate, manager, or employee 59478
shall not own or provide services to any other medicaid provider 59479
or risk contractor or arrange for, render, or order services for 59480
medicaid recipients during the period of suspension. During the 59481
period of suspension, the provider, owner, officer, authorized 59482
agent, associate, manager, or employee shall not receive 59483
reimbursement in the form of direct payments from the department 59484
or indirect payments of medicaid funds in the form of salary, 59485
shared fees, contracts, kickbacks, or rebates from or through any 59486
participating provider or risk contractor. 59487

(D)(1) The department shall not suspend a provider agreement 59488
or terminate medicaid reimbursement under division (C) of this 59489
section if the provider or owner can demonstrate through the 59490
submission of written evidence that the provider or owner did not 59491
directly or indirectly sanction the action of its authorized 59492
agent, associate, manager, or employee that resulted in the 59493
indictment. 59494

(2) The termination of medicaid reimbursement applies only to 59495
payments for medicaid services rendered subsequent to the date on 59496
which the notice required under division (F) of this section is 59497
sent. Claims for reimbursement for medicaid services rendered by 59498
the provider prior to the issuance of the notice may be subject to 59499
prepayment review procedures whereby the department reviews claims 59500
to determine whether they are supported by sufficient 59501

documentation, are in compliance with state and federal statutes 59502
and rules, and are otherwise complete. 59503

(E)(1) In the case of a noninstitutional medicaid provider 59504
that is not an independent provider, the suspension of a provider 59505
agreement under division (C) of this section applies when an 59506
indictment charges a person with committing an act that would be a 59507
felony or misdemeanor under the laws of this state and the act 59508
relates to or results from either of the following: 59509

(a) Furnishing or billing for medical care, services, or 59510
supplies under the medicaid program; 59511

(b) Participating in the performance of management or 59512
administrative services relating to furnishing medical care, 59513
services, or supplies under the medicaid program. 59514

(2) In the case of a noninstitutional medicaid provider that 59515
is an independent provider, the suspension of a provider agreement 59516
under division (C) of this section applies when an indictment 59517
charges a person with committing an act that would constitute ~~one~~ 59518
~~of the offenses specified in division (D) of a disqualifying~~ 59519
offense as defined in section 5111.034 5111.032 of the Revised 59520
Code. 59521

(F) Not later than five days after suspending a provider 59522
agreement under division (C) of this section, the department shall 59523
send notice of the suspension to the affected provider or owner. 59524
In providing the notice, the department shall do all of the 59525
following: 59526

(1) Describe the indictment that was the cause of the 59527
suspension, without necessarily disclosing specific information 59528
concerning any ongoing civil or criminal investigation; 59529

(2) State that the suspension will continue in effect until 59530
the proceedings in the criminal case are completed through 59531
dismissal of the indictment or through conviction, entry of a 59532

guilty plea, or finding of not guilty and, if the department 59533
commences a process to terminate the suspended provider agreement, 59534
until the termination process is concluded; 59535

(3) Inform the provider or owner of the opportunity to submit 59536
to the department, not later than thirty days after receiving the 59537
notice, a request for a reconsideration pursuant to division (G) 59538
of this section. 59539

(G)(1) Pursuant to the procedure specified in division (G)(2) 59540
of this section, a noninstitutional medicaid provider or owner 59541
subject to a suspension under this section may request a 59542
reconsideration. The request shall be made not later than thirty 59543
days after receipt of the notice provided under division (F) of 59544
this section. The reconsideration is not subject to an 59545
adjudication hearing pursuant to Chapter 119. of the Revised Code. 59546

(2) In requesting a reconsideration, the provider or owner 59547
shall submit written information and documents to the department. 59548
The information and documents may pertain to any of the following 59549
issues: 59550

(a) Whether the determination to suspend the provider 59551
agreement was based on a mistake of fact, other than the validity 59552
of the indictment; 59553

(b) Whether any offense charged in the indictment resulted 59554
from an offense specified in division (E) of this section; 59555

(c) Whether the provider or owner can demonstrate that the 59556
provider or owner did not directly or indirectly sanction the 59557
action of its authorized agent, associate, manager, or employee 59558
that resulted in the indictment. 59559

(3) The department shall review the information and documents 59560
submitted in a request for reconsideration. After the review, the 59561
suspension may be affirmed, reversed, or modified, in whole or in 59562
part. The department shall notify the affected provider or owner 59563

of the results of the review. The review and notification of its 59564
results shall be completed not later than forty-five days after 59565
receiving the information and documents submitted in a request for 59566
reconsideration. 59567

(H) The department may adopt rules in accordance with Chapter 59568
119. of the Revised Code to implement this section. The rules may 59569
specify circumstances under which the department would not suspend 59570
a provider agreement pursuant to this section. 59571

Sec. 5111.032. (A) As used in this section: 59572

(1) "Criminal records check" has the same meaning as in 59573
section 109.572 of the Revised Code. 59574

(2) ~~"Department" includes a designee of the department of job 59575
and family services. 59576~~

~~(3) "Disqualifying offense" means any of the following: 59577~~

~~(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 59578
2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 59579
2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 59580
2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 59581
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 59582
2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 59583
2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 59584
2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 59585
2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 59586
2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 59587
2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 59588
2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 59589
2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24, 59590
2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 59591
2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 59592
2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 59593~~

2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 59594
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code; 59595

(b) Felonious sexual penetration in violation of former 59596
section 2907.12 of the Revised Code; 59597

(c) A violation of section 2905.04 of the Revised Code as it 59598
existed prior to July 1, 1996; 59599

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 59600
the Revised Code when the underlying offense that is the object of 59601
the conspiracy, attempt, or complicity is one of the offenses 59602
listed in division (A)(2)(a) to (c) of this section; 59603

(e) A violation of an existing or former municipal ordinance 59604
or law of this state, any other state, or the United States that 59605
is substantially equivalent to any of the offenses listed in 59606
division (A)(2)(a) to (d) of this section. 59607

(3) "Owner" means a person who has an ownership interest in a 59608
provider or applicant to be a provider in an amount designated by 59609
the department of job and family services in rules adopted under 59610
this section. 59611

(4) "Person subject to the criminal records check 59612
requirement" means the following: 59613

(a) A provider or applicant to be a provider who is notified 59614
under division (E)(1) of this section that the provider or 59615
applicant is subject to a criminal records check; 59616

(b) An owner or prospective owner, officer or prospective 59617
officer, or board member or prospective board member of a provider 59618
or applicant to be a provider if, pursuant to division (E)(1)(a) 59619
of this section, the owner or prospective owner, officer or 59620
prospective officer, or board member or prospective board member 59621
is specified in information given to the provider or applicant 59622
under division (E)(1) of this section; 59623

(c) An employee or prospective employee of a provider or applicant to be a provider if both of the following apply: 59624
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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. 59626
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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. 59630
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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. 59633
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(6) "Responsible entity" means the following: 59637

(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; 59638
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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. 59642
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(B)(1) Except as provided in division (B)(2) of this section, the This section does not apply to any individual who is subject to a criminal records check under section 3712.09, 3721.121, 5111.034, 5123.081, or 5123.169 of the Revised Code or any individual who is subject to a database review or criminal records check under section 173.394, 3701.881, or 5111.033 of the Revised Code. 59647
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(C) The department of job and family services may require do 59654
any of the following: 59655

(1) Require that any provider, or applicant to be a provider, 59656
employee or prospective employee of a provider, owner or 59657
prospective owner of a provider, officer or prospective officer of 59658
a provider, or board member or prospective board member of a 59659
provider submit to a criminal records check as a condition of 59660
obtaining having a medicaid provider agreement, continuing to hold 59661
a provider agreement, being employed by a provider, having an 59662
ownership interest in a provider, or being an officer or board 59663
member of a provider. The department may designate the categories 59664
of persons who are subject to the criminal records check 59665
requirement. The department shall designate the times at which the 59666
criminal records checks must be conducted. 59667

(2) The section does not apply to providers, applicants to be 59668
providers, employees of a provider, or prospective employees of a 59669
provider who are subject to criminal records checks under section 59670
5111.033 or 5111.034 of the Revised Code; 59671

(2) Require that any provider or applicant to be a provider 59672
require an owner or prospective owner, officer or prospective 59673
officer, or board member or prospective board member of the 59674
provider or applicant submit to a criminal records check as a 59675
condition of being an owner, officer, or board member of the 59676
provider or applicant; 59677

(3) Require that any provider or applicant to be a provider 59678
do the following: 59679

(a) If so required by rules adopted under this section, 59680
determine pursuant to a database review conducted under division 59681
(F)(1)(a) of this section whether any employee or prospective 59682
employee of the provider or applicant is included in a database; 59683

(b) Unless the provider or applicant is prohibited by 59684

division (D)(3)(b) of this section from employing the employee or 59685
prospective employee, require the employee or prospective employee 59686
to submit to a criminal records check as a condition of being an 59687
employee of the provider or applicant. 59688

(D)(1) The department or the department's designee shall 59689
terminate a provider's medicaid provider agreement or deny an 59690
applicant's application for a medicaid provider agreement if the 59691
provider or applicant is a person subject to the criminal records 59692
check requirement and either of the following applies: 59693

(a) The provider or applicant fails to obtain the criminal 59694
records check after being given the information specified in 59695
division (G)(1) of this section. 59696

(b) Except as provided in rules adopted under this section, 59697
the provider or applicant is found by the criminal records check 59698
to have been convicted of, pleaded guilty to, or been found 59699
eligible for intervention in lieu of conviction for a 59700
disqualifying offense, regardless of the date of the conviction, 59701
the date of entry of the guilty plea, or the date the applicant or 59702
provider was found eligible for intervention in lieu of 59703
conviction. 59704

(2) No provider or applicant to be a provider shall permit a 59705
person to be an owner, officer, or board member of the provider or 59706
applicant if the person is a person subject to the criminal 59707
records check requirement and either of the following applies: 59708

(a) The person fails to obtain the criminal records check 59709
after being given the information specified in division (G)(1) of 59710
this section. 59711

(b) Except as provided in rules adopted under this section, 59712
the person is found by the criminal records check to have been 59713
convicted of, pleaded guilty to, or been found eligible for 59714
intervention in lieu of conviction for a disqualifying offense, 59715

regardless of the date of the conviction, the date of entry of the 59716
guilty plea, or the date the person was found eligible for 59717
intervention in lieu of conviction. 59718

(3) No provider or applicant to be a provider shall employ a 59719
person if any of the following apply: 59720

(a) The person has been excluded from providing services or 59721
items under the medicaid program, the medicare program operated 59722
pursuant to Title XVIII of the "Social Security Act," or any other 59723
federal health care program. 59724

(b) If the person is subject to a database review conducted 59725
under division (F)(1)(a) of this section, the person is found by 59726
the database review to be included in a database and the rules 59727
adopted under this section regarding the database review prohibit 59728
the provider or applicant from employing a person included in the 59729
database. 59730

(c) If the person is a person subject to the criminal records 59731
check requirement, either of the following applies: 59732

(i) The person fails to obtain the criminal records check 59733
after being given the information specified in division (G)(1) of 59734
this section. 59735

(ii) Except as provided in rules adopted under this section, 59736
the person is found by the criminal records check to have been 59737
convicted of, pleaded guilty to, or been found eligible for 59738
intervention in lieu of conviction for a disqualifying offense, 59739
regardless of the date of the conviction, the date of entry of the 59740
guilty plea, or the date the person was found eligible for 59741
intervention in lieu of conviction. 59742

~~(C)(E)(1)~~ The department or the department's designee shall 59743
inform each provider or applicant to be a provider whether the 59744
provider or applicant is subject to a criminal records check 59745
requirement under division (B) of this section. For providers, the 59746

information shall be given at times designated in rules adopted 59747
under this section. For applicants to be providers, the 59748
information shall be given at the time of initial application. 59749
When the information is given, the department or the department's 59750
designee shall specify ~~which~~ the following: 59751

(a) Which of the provider's or applicant's ~~employees or~~ 59752
~~prospective employees,~~ owners or prospective owners, officers or 59753
prospective officers, or board members or prospective board 59754
members are subject to ~~the~~ a criminal records check ~~requirement;~~ 59755

(b) Which of the provider's or applicant's employees or 59756
prospective employees are subject to division (C)(3) of this 59757
section. 59758

(2) At times designated in rules adopted under this section, 59759
a provider or applicant to be a provider that is a person subject 59760
to the criminal records check requirement shall ~~inform~~ do the 59761
following: 59762

(a) Inform each person specified ~~by the department~~ under 59763
division ~~(C)(1)(E)(1)(a)~~ of this section that the person is 59764
required, ~~as applicable,~~ to submit to a criminal records check ~~for~~ 59765
~~final consideration for employment in a full time, part time, or~~ 59766
~~temporary position; as a condition of continued employment; or as~~ 59767
a condition of ~~becoming or continuing to be~~ being an owner, 59768
officer, or board member ~~or owner~~ of a the provider or applicant; 59769

(b) Inform each person specified under division (E)(1)(b) of 59770
this section that the person is subject to division (C)(3) of this 59771
section. 59772

~~(D)(F)(1)~~ If a provider or applicant to be a provider is a 59773
person subject to ~~a~~ the criminal records check ~~under this section~~ 59774
requirement, the department or the department's designee shall 59775
require the conduct of a criminal records check by the 59776
superintendent of the bureau of criminal identification and 59777

~~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.~~

~~(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 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~~ 59811
~~the provider to request that the superintendent obtain information~~ 59812
~~from the federal bureau of investigation and include it in the~~ 59813
~~criminal records check of the person. With respect to each~~ 59814
~~employee and prospective employee specified under division~~ 59815
~~(E)(1)(b) of this section, a provider or applicant to be a~~ 59816
~~provider shall do the following:~~ 59817

(a) If rules adopted under this section require the provider 59818
or applicant to conduct a database review to determine whether the 59819
employee or prospective employee is included in a database, 59820
conduct the database review in accordance with the rules; 59821

(b) Unless the provider or applicant is prohibited by 59822
division (D)(3)(b) of this section from employing the employee or 59823
prospective employee, require the conduct of a criminal records 59824
check of the employee or prospective employee by the 59825
superintendent. 59826

(2) If a person subject to the criminal records check 59827
requirement does not present proof of having been a resident of 59828
this state for the five-year period immediately prior to the date 59829
the criminal records check is requested or provide evidence that 59830
within that five-year period the superintendent has requested 59831
information about the person from the federal bureau of 59832
investigation in a criminal records check, the responsible entity 59833
shall require the person to request that the superintendent obtain 59834
information from the federal bureau of investigation as part of 59835
the criminal records check of the person. Even if the person 59836
presents proof of having been a resident of this state for the 59837
five-year period, the responsible entity may require that the 59838
person request that the superintendent obtain information from the 59839
federal bureau of investigation and include it in the criminal 59840
records check of the person. 59841

~~(E)(1)(G) Criminal records checks required under by this~~ 59842

section for ~~providers or applicants to be providers~~ shall be 59843
obtained as follows: 59844

~~(a)(1)~~ The ~~department~~ responsible entity shall provide each 59845
~~provider or applicant~~ person subject to the criminal records check 59846
requirement information about accessing and completing the form 59847
prescribed pursuant to division (C)(1) of section 109.572 of the 59848
Revised Code and the standard ~~fingerprint~~ impression sheet 59849
prescribed pursuant to division (C)(2) of that section. 59850

~~(b)(2)~~ The ~~provider or applicant~~ person subject to the 59851
criminal records check requirement shall submit the required form 59852
and one complete set of the person's fingerprint impressions 59853
directly to the superintendent for purposes of conducting the 59854
criminal records check using the applicable methods prescribed by 59855
division (C) of section 109.572 of the Revised Code. The ~~applicant~~ 59856
~~or provider~~ person shall pay all fees associated with obtaining 59857
the criminal records check. 59858

~~(c)(3)~~ The superintendent shall conduct the criminal records 59859
check in accordance with section 109.572 of the Revised Code. The 59860
~~provider or applicant~~ person subject to the criminal records check 59861
requirement shall instruct the superintendent to submit the report 59862
of the criminal records check directly to the ~~director of job and~~ 59863
~~family services.~~ 59864

~~(2)~~ ~~Criminal records checks required under this section for~~ 59865
~~persons specified by the department under division (C)(1) of this~~ 59866
~~section shall be obtained as follows:~~ 59867

~~(a)~~ The ~~provider~~ shall give to each person subject to 59868
~~riminal records check requirement~~ information about accessing and 59869
~~completing the form prescribed pursuant to division (C)(1) of~~ 59870
~~section 109.572 of the Revised Code and the standard fingerprint~~ 59871
~~impression sheet prescribed pursuant to division (C)(2) of that~~ 59872
~~section.~~ 59873

~~(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.~~

~~(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.~~

~~(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.~~

~~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.~~

~~(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;~~ 59906
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~~(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;~~ 59908
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~~(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 (G)(1) of this section.~~ 59930
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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~~ 59934
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~~subject to a criminal records check under this section and the~~ 59938
~~person has been convicted of, has pleaded guilty to, or has been~~ 59939
~~found eligible for intervention in lieu of conviction for any of~~ 59940
~~the offenses specified in division (G)(1) or (2) of this section.~~ 59941

~~(b) No provider shall employ a person who has been excluded~~ 59942
~~from participating in the medicaid program, the medicare program~~ 59943
~~operated pursuant to Title XVIII of the "Social Security Act," or~~ 59944
~~any other federal health care program.~~ 59945

~~(2)(a)(H)(1)~~ A provider or applicant to be a provider may 59946
employ conditionally a person for whom a criminal records check is 59947
required ~~under~~ by this section prior to obtaining the results of a 59948
the criminal records check ~~regarding the person, but only if the~~ 59949
both of the following apply: 59950

(a) The provider or applicant is not prohibited by division 59951
(D)(3)(b) of this section from employing the person. 59952

(b) The person submits a request for a the criminal records 59953
check not later than five business days after the ~~individual~~ 59954
person begins conditional employment. 59955

~~(b)(2)~~ A provider or applicant to be a provider that employs 59956
a person conditionally under ~~authority of~~ division (H)~~(2)(a)(1)~~ of 59957
this section shall terminate the person's employment if the 59958
results of the criminal records check request are not obtained 59959
within the period ending sixty days after the date the request is 59960
made. Regardless of when the results of the criminal records check 59961
are obtained, if the results indicate that the ~~individual~~ person 59962
has been convicted of, has pleaded guilty to, or has been found 59963
eligible for intervention in lieu of conviction for ~~any of the~~ 59964
~~offenses specified in division (G)(1) or (2) of this section a~~ 59965
disqualifying offense, the provider or applicant shall terminate 59966
the person's employment unless circumstances specified in rules 59967
adopted under this section exist that permit the provider or 59968

applicant to employ the person and the provider or applicant 59969
chooses to employ the ~~individual pursuant to division (J) of this~~ 59970
~~section~~ person. 59971

(I) The report of a criminal records check conducted pursuant 59972
to this section is not a public record for the purposes of section 59973
149.43 of the Revised Code and shall not be made available to any 59974
person other than the following: 59975

(1) The person who is the subject of the criminal records 59976
check or the person's representative; 59977

(2) The director of job and family services and the staff of 59978
the department in the administration of the medicaid program; 59979

(3) The department's designee; 59980

(4) The provider or applicant to be a provider who required 59981
the person who is the subject of the criminal records check to 59982
submit to the criminal records check; 59983

(5) A court, hearing officer, or other necessary individual 59984
involved in a case dealing with ~~the~~ any of the following: 59985

(a) The denial or termination of a medicaid provider 59986
agreement; 59987

~~(4) A court, hearing officer, or other necessary individual~~ 59988
~~involved in a case dealing with a~~ (b) A person's denial of 59989
employment, termination of employment, or employment or 59990
unemployment benefits; 59991

(c) A civil or criminal action regarding the medicaid 59992
program. 59993

(J) The ~~department~~ director of job and family services may 59994
adopt rules in accordance with Chapter 119. of the Revised Code to 59995
implement this section. If the director adopts such rules, the 59996
rules shall designate the times at which a criminal records check 59997
must be conducted under this section. The rules may ~~specify~~ do any 59998

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| <u>of the following:</u> | 59999 |
| <u>(1) Designate the categories of persons who are subject to a criminal records check under this section;</u> | 60000 |
| | 60001 |
| <u>(2) Specify circumstances under which the department or the department's designee may continue a medicaid provider agreement or issue a medicaid provider agreement to an applicant when the provider or applicant has <u>is found by a criminal records check to have</u> 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 (G)(1) or (2) of this section. The rules may also specify a disqualifying offense;</u> | 60002 |
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| <u>(3) Specify circumstances under which a provider or applicant to be a provider may permit a person to be an employee, owner, officer, or board member of the provider or applicant, when the person has <u>is found by a criminal records check conducted pursuant to this section to have</u> 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 (G)(1) or (2) of this section <u>a disqualifying offense;</u></u> | 60010 |
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| <u>(4) Specify all of the following:</u> | 60018 |
| <u>(a) The circumstances under which a database review must be conducted under division (F)(1)(a) of this section to determine whether an employee or prospective employee of a provider or applicant to be a provider is included in a database;</u> | 60019 |
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| <u>(b) The procedures for conducting the database review;</u> | 60023 |
| <u>(c) The databases that are to be checked;</u> | 60024 |
| <u>(d) The circumstances under which a provider or applicant to be a provider is prohibited from employing a person who is found by the database review to be included in a database.</u> | 60025 |
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| Sec. 5111.033. (A) As used in this section: | 60028 |

~~(1) "Applicant" means a person who is under final consideration for employment or, after September 26, 2003, an existing employee with 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. "Applicant" also means an existing employee with 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 after September 26, 2003.~~

~~(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.~~

~~(3) "Waiver agency" means a person or government entity that is not certified under the medicare program and is accredited by the community health accreditation program or the joint commission on accreditation of health care organizations or a company that provides home and community based waiver services to persons with disabilities through department of job and family services administered home and community based waiver programs.~~

~~(4) "Home Disqualifying offense" has the same meaning as in section 5111.032 of the Revised Code.~~

~~"Employee" means a person employed by a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.~~

~~"Home and community-based waiver services medicaid waiver component" means services furnished under the provision of 42 C.F.R. 441, subpart C, 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. 60060
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(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: 60067
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(1) A review of the databases listed in division (D) of this section reveals any of the following: 60070
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(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; 60072
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(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; 60075
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(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. 60081
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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: 60087
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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; 60091
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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. 60096
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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. 60099
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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: 60107
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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 employing the applicant in the position; 60111
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(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. 60115
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(D) As a condition of employing any applicant in a position that involves providing home and community-based services, the 60120
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chief administrator of a waiver agency shall conduct a database 60122
review of the applicant in accordance with rules adopted under 60123
this section. If rules adopted under this section so require, the 60124
chief administrator of a waiver agency shall conduct a database 60125
review of an employee in accordance with the rules as a condition 60126
of continuing to employ the employee in a position that involves 60127
providing home and community-based services. A database review 60128
shall determine whether the applicant or employee is included in 60129
any of the following: 60130

(1) The excluded parties list system maintained by the United 60131
States general services administration pursuant to subpart 9.4 of 60132
the federal acquisition regulation; 60133

(2) The list of excluded individuals and entities maintained 60134
by the office of inspector general in the United States department 60135
of health and human services pursuant to section 1128 of the 60136
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 60137
amended, and section 1156 of the "Social Security Act," 96 Stat. 60138
388 (1982), 42 U.S.C. 1320c-5, as amended; 60139

(3) The registry of MR/DD employees established under section 60140
5123.52 of the Revised Code; 60141

(4) The internet-based sex offender and child-victim offender 60142
database established under division (A)(11) of section 2950.13 of 60143
the Revised Code; 60144

(5) The internet-based database of inmates established under 60145
section 5120.66 of the Revised Code; 60146

(6) The state nurse aide registry established under section 60147
3721.32 of the Revised Code; 60148

(7) Any other database, if any, specified in rules adopted 60149
under this section. 60150

(E)(1) The As a condition of employing any applicant in a 60151

position that involves providing home and community-based 60152
services, the chief administrator of a waiver agency shall require 60153
~~each~~ the applicant to request that the superintendent of the 60154
bureau of criminal identification and investigation conduct a 60155
criminal records check ~~with respect to~~ of the applicant. If rules 60156
adopted under this section so require, the chief administrator of 60157
a waiver agency shall require an employee to request that the 60158
superintendent conduct a criminal records check of the employee at 60159
times specified in the rules as a condition of continuing to 60160
employ the employee in a position that involves providing home and 60161
community-based services. However, a criminal records check is not 60162
required for an applicant or employee if the waiver agency is 60163
prohibited by division (B)(1) of this section from employing the 60164
applicant or continuing to employ the employee in a position that 60165
involves providing home and community-based services. If an 60166
applicant or employee for whom a criminal records check request is 60167
required ~~under this division~~ by this section does not present 60168
proof of having been a resident of this state for the five-year 60169
period immediately prior to the date the criminal records check is 60170
requested or provide evidence that within that five-year period 60171
the superintendent has requested information about the applicant 60172
or employee from the federal bureau of investigation in a criminal 60173
records check, the chief administrator shall require the applicant 60174
or employee to request that the superintendent obtain information 60175
from the federal bureau of investigation as part of the criminal 60176
records check ~~of the applicant~~. Even if an applicant or employee 60177
for whom a criminal records check request is required ~~under this~~ 60178
~~division~~ by this section presents proof of having been a resident 60179
of this state for the five-year period, the chief administrator 60180
may require the applicant or employee to request that the 60181
superintendent include information from the federal bureau of 60182
investigation in the criminal records check. 60183

(2) The chief administrator shall provide the following to 60184

each applicant and employee for whom a criminal records check 60185
~~request~~ is required ~~under division (B)(1) of~~ by this section: 60186

(a) Information about accessing, completing, and forwarding 60187
to the superintendent of the bureau of criminal identification and 60188
investigation the form prescribed pursuant to division (C)(1) of 60189
section 109.572 of the Revised Code and the standard ~~fingerprint~~ 60190
impression sheet prescribed pursuant to division (C)(2) of that 60191
section; 60192

(b) Written notification that the applicant or employee is to 60193
instruct the superintendent to submit the completed report of the 60194
criminal records check directly to the chief administrator. 60195

(3) ~~An applicant given information and notification under~~ 60196
~~divisions (B)(2)(a) and (b) of this section who fails to access,~~ 60197
~~complete, and forward to the superintendent the form or the~~ 60198
~~standard fingerprint impression sheet, or who fails to instruct~~ 60199
~~the superintendent to submit the completed report of the criminal~~ 60200
~~records check directly to the chief administrator, shall not be~~ 60201
~~employed in any position in a waiver agency for which a criminal~~ 60202
~~records check is required by this section. A waiver agency shall~~ 60203
~~pay to the bureau of criminal identification and investigation the~~ 60204
~~fee prescribed pursuant to division (C)(3) of section 109.572 of~~ 60205
~~the Revised Code for any criminal records check required by this~~ 60206
~~section. However, a waiver agency may require an applicant to pay~~ 60207
~~to the bureau the fee for a criminal records check of the~~ 60208
~~applicant. If the waiver agency pays the fee for an applicant, it~~ 60209
~~may charge the applicant a fee not exceeding the amount the waiver~~ 60210
~~agency pays to the bureau under this section if the waiver agency~~ 60211
~~notifies the applicant at the time of initial application for~~ 60212
~~employment of the amount of the fee and that, unless the fee is~~ 60213
~~paid, the applicant will not be considered for employment.~~ 60214

~~(C)(1) Except as provided in rules adopted by the department~~ 60215
~~of job and family services in accordance with division (F) of this~~ 60216

~~section and subject to division (C)(2) of this section, no waiver 60217
agency shall employ a person in a position that involves providing 60218
home and community based waiver services to persons with 60219
disabilities if the person has been convicted of, has pleaded 60220
guilty to, or has been found eligible for intervention in lieu of 60221
conviction for any of the following, regardless of the date of the 60222
conviction, the date of entry of the guilty plea, or the date the 60223
person was found eligible for intervention in lieu of conviction. 60224~~

~~(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 60225
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 60226
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 60227
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 60228
2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 60229
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 60230
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 60231
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 60232
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 60233
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 60234
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 60235
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 60236
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 60237
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 60238
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 60239
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 60240
penetration in violation of former section 2907.12 of the Revised 60241
Code, a violation of section 2905.04 of the Revised Code as it 60242
existed prior to July 1, 1996, a violation of section 2919.23 of 60243
the Revised Code that would have been a violation of section 60244
2905.04 of the Revised Code as it existed prior to July 1, 1996, 60245
had the violation been committed prior to that date; 60246~~

~~(b) A violation of an existing or former municipal ordinance 60247
or law of this state, any other state, or the United States that 60248~~

~~is substantially equivalent to any of the offenses listed in~~ 60249
~~division (C)(1)(a) of this section.~~ 60250

~~(2)(a)(F)(1)~~ A waiver agency may employ conditionally an 60251
applicant for whom a criminal records check ~~request~~ is required 60252
~~under division (B) of~~ by this section prior to obtaining the 60253
results of a the criminal records check ~~regarding the individual,~~ 60254
~~provided that the~~ if both of the following apply: 60255

(a) The waiver agency is not prohibited by division (B)(1) of 60256
this section from employing the applicant in a position that 60257
involves providing home and community-based services. 60258

(b) The chief administrator of the waiver agency shall 60259
require ~~requires~~ the ~~individual~~ applicant to request a criminal 60260
records check regarding the ~~individual~~ applicant in accordance 60261
with division ~~(B)(E)~~(1) of this section not later than five 60262
business days after the ~~individual~~ applicant begins conditional 60263
employment. 60264

~~(b)(2)~~ A waiver agency that employs an ~~individual~~ applicant 60265
conditionally under ~~authority of~~ division ~~(C)(2)(a)(F)(1)~~ of this 60266
section shall terminate the ~~individual's~~ applicant's employment if 60267
the results of the criminal records check ~~request under division~~ 60268
~~(B) of this section,~~ other than the results of any request for 60269
information from the federal bureau of investigation, are not 60270
obtained within the period ending sixty days after the date the 60271
request for the criminal records check is made. Regardless of when 60272
the results of the criminal records check are obtained, if the 60273
results indicate that the ~~individual~~ applicant has been convicted 60274
of, has pleaded guilty to, or has been found eligible for 60275
intervention in lieu of conviction for ~~any of the offenses listed~~ 60276
~~or described in division (C)(1) of this section~~ a disqualifying 60277
offense, the waiver agency shall terminate the ~~individual's~~ 60278
applicant's employment unless circumstances specified in rules 60279
adopted under this section exist that permit the waiver agency to 60280

employ the applicant and the waiver agency chooses to employ the 60281
individual pursuant to division (F) of this section applicant. 60282

~~(D)(1) The fee prescribed pursuant to division (C)(3) of~~ 60283
~~section 109.572 of the Revised Code for each criminal records~~ 60284
~~check conducted pursuant to a request made under division (B) of~~ 60285
~~this section shall be paid to the bureau of criminal~~ 60286
~~identification and investigation by the applicant or the waiver~~ 60287
~~agency.~~ 60288

~~(2) If a waiver agency pays the fee, it may charge the~~ 60289
~~applicant a fee not exceeding the amount the agency pays under~~ 60290
~~division (D)(1) of this section. An agency may collect a fee only~~ 60291
~~if the agency notifies the person at the time of initial~~ 60292
~~application for employment of the amount of the fee and that,~~ 60293
~~unless the fee is paid, the person will not be considered for~~ 60294
~~employment.~~ 60295

~~(E)(G)~~ The report of any criminal records check conducted 60296
pursuant to a request made under this section is not a public 60297
record for the purposes of section 149.43 of the Revised Code and 60298
shall not be made available to any person other than the 60299
following: 60300

(1) The individual applicant or employee who is the subject 60301
of the criminal records check or the individual's representative 60302
of the applicant or employee; 60303

(2) The chief administrator of the waiver agency ~~requesting~~ 60304
that requires the applicant or employee to request the criminal 60305
records check or the administrator's representative; 60306

(3) ~~An administrator at~~ The director of job and family 60307
services and the staff of the department in the administration of 60308
the medicaid program; 60309

(4) A court, hearing officer, or other necessary individual 60310
involved in a case dealing with a any of the following: 60311

(a) A denial of employment of the applicant or ~~dealing with~~ employment employee; 60312
60313

(b) Employment or unemployment benefits of the applicant or employee; 60314
60315

(c) A civil or criminal action regarding the medicaid program. 60316
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~~(F)~~(H) The department director of job and family services 60318
shall adopt rules in accordance with Chapter 119. of the Revised 60319
Code to implement this section. ~~The~~ 60320

(1) The rules may do the following: 60321

(a) Require employees to undergo database reviews and criminal records checks under this section; 60322
60323

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements; 60324
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(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section. 60327
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(2) The rules shall specify all of the following: 60330

(a) The procedures for conducting a database review under this section; 60331
60332

(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; 60333
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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; 60337
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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.~~

~~(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.~~

~~(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.~~

~~(2) This section shall not apply to a person to whom all of the following apply:~~

~~(a) On September 26, 2003, the person is an employee of a waiver agency in a full time, part time, or temporary position that involves providing home and community based waiver services to a person with disabilities.~~

~~(b) The person previously had been the subject of a criminal background check relating to that position;~~

~~(c) The person has been continuously employed in that position since that criminal background check had been conducted.~~

(I) The amendments made by ...B... to this section do not preclude the department of job and family services from taking

action against a person for failure to comply with former division 60373
(H) of this section as that division existed on the day preceding 60374
the effective date of this amendment. 60375

Sec. 5111.034. (A) As used in this section: 60376

~~(1)~~ "Anniversary date" means the later of the effective date 60377
of the provider agreement relating to the independent provider or 60378
sixty days after September 26, 2003. 60379

~~(2)~~ "Criminal Applicant" means a person who has applied for 60380
a medicaid provider agreement to provide home and community-based 60381
services as an independent provider under a home and 60382
community-based medicaid waiver component administered by the 60383
department of job and family services. 60384

"Criminal records check" has the same meaning as in section 60385
109.572 of the Revised Code. 60386

~~(3)~~ "Department" ~~includes a designee of the department of job~~ 60387
~~and family services.~~ 60388

~~(4)~~ "Independent Disqualifying offense" has the same meaning 60389
as in section 5111.032 of the Revised Code. 60390

"Independent provider" means a person who is submitting an 60391
application for a provider agreement or who has a medicaid 60392
provider agreement to provide home and community-based services as 60393
an independent provider in a home and community-based services 60394
medicaid waiver component administered by the department of job 60395
and family services administered home and community based services 60396
program providing home and community based waiver services to 60397
consumers with disabilities. 60398

~~(5)~~ "Home and community-based waiver services medicaid waiver 60399
component" has the same meaning as in section 5111.033 5111.85 of 60400
the Revised Code. 60401

(B) The department of job and family services or the 60402

department's designee shall deny an applicant's application for a 60403
medicaid provider agreement and shall terminate an independent 60404
provider's medicaid provider agreement if either of the following 60405
applies: 60406

(1) After the applicant or independent provider is given the 60407
information and notification required by divisions (D)(2)(a) and 60408
(b) of this section, the applicant or independent provider fails 60409
to do either of the following: 60410

(a) Access, complete, or forward to the superintendent of the 60411
bureau of criminal identification and investigation the form 60412
prescribed pursuant to division (C)(1) of section 109.572 of the 60413
Revised Code or the standard impression sheet prescribed pursuant 60414
to division (C)(2) of that section; 60415

(b) Instruct the superintendent to submit the completed 60416
report of the criminal records check required by this section 60417
directly to the department or the department's designee. 60418

(2) Except as provided in rules adopted under this section, 60419
the applicant or independent provider is found by a criminal 60420
records check required by this section to have been convicted of, 60421
pleaded guilty to, or been found eligible for intervention in lieu 60422
of conviction for a disqualifying offense, regardless of the date 60423
of the conviction, the date of entry of the guilty plea, or the 60424
date the applicant or independent provider was found eligible for 60425
intervention in lieu of conviction. 60426

(C)(1) The department of job and family services or the 60427
department's designee shall inform each independent provider 60428
applicant, at the time of initial application for a medicaid 60429
provider agreement that involves providing home and 60430
community based waiver services to consumers with disabilities, 60431
that the independent provider applicant is required to provide a 60432
set of the applicant's fingerprint impressions and that a criminal 60433

records check is required to be conducted ~~if the person is to~~ 60434
~~become an independent provider in a department administered home~~ 60435
~~and community based waiver program as a condition of the~~ 60436
department's approving the application. 60437

(2) Beginning on September 26, 2003, the department or the 60438
department's designee shall inform each ~~enrolled medicaid~~ 60439
independent provider on or before the time of the anniversary date 60440
of the medicaid provider agreement ~~that involves providing home~~ 60441
~~and community based waiver services to consumers with disabilities~~ 60442
that the independent provider is required to provide a set of the 60443
independent provider's fingerprint impressions and that a criminal 60444
records check is required to be conducted. 60445

~~(C)(D)~~(1) The department or the department's designee shall 60446
require ~~the independent provider~~ an applicant to complete a 60447
criminal records check prior to entering into a medicaid provider 60448
agreement with the ~~independent provider and applicant. The~~ 60449
department or the department's designee shall require an 60450
independent provider to complete a criminal records check at least 60451
annually ~~thereafter~~. If an applicant or independent provider for 60452
whom a criminal records check is required ~~under this division by~~ 60453
this section does not present proof of having been a resident of 60454
this state for the five-year period immediately prior to the date 60455
the criminal records check is requested or provide evidence that 60456
within that five-year period the superintendent of the bureau of 60457
criminal identification and investigation has requested 60458
information about the applicant or independent provider from the 60459
federal bureau of investigation in a criminal records check, the 60460
department or the department's designee shall request that the 60461
applicant or independent provider obtain through the 60462
superintendent a criminal records request from the federal bureau 60463
of investigation as part of the criminal records check of the 60464
applicant or independent provider. Even if an applicant or 60465

independent provider for whom a criminal records check request is required ~~under this division by this section~~ presents proof of having been a resident of this state for the five-year period, the department or the department's designee may request that the applicant or independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check.

(2) The department or the department's designee shall provide the following to each applicant and independent provider for whom a criminal records check ~~request~~ is required ~~under division (C)(1)~~ ~~of~~ by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation 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;

(b) Written notification that the applicant or independent provider is to instruct the superintendent to submit the completed report of the criminal records check directly to the department or the department's designee.

(3) ~~An independent provider given information and notification under divisions (C)(2)(a) and (b) of this section who fails to access, complete, and forward to the superintendent the form or the standard fingerprint impression sheet, or who fails to instruct the superintendent to submit the completed report of the criminal records check directly to the department, shall not be approved as an independent provider.~~ Each applicant and independent provider for whom a criminal records check is required by this section 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 the criminal records

check conducted of the applicant or independent provider. 60498

~~(D) Except as provided in rules adopted by the department in accordance with division (G) of this section, the department shall not issue a new provider agreement to, and shall terminate an existing provider agreement of, an independent provider if 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 following, 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:~~ 60499
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~~(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;~~ 60508
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~~(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 (D)(1) of this section.~~ 60530
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~~(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section.~~ 60534
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~~(F)~~(E) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under ~~division (C)~~ of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following: 60539
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(1) The person who is the subject of the criminal records check or the person's representative; 60546
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(2) An administrator at The director of job and family services and the staff of the department or the administrator's representative in the administration of the medicaid program; 60548
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(3) The department's designee; 60551

(4) An individual who receives home and community-based services from the person who is the subject of the criminal records check; 60552
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(5) A court, hearing officer, or other necessary individual involved in a case dealing with ~~a~~ either of the following: 60555
60556

(a) A denial or termination of a provider agreement related to the criminal records check; 60557
60558

(b) A civil or criminal action regarding the medicaid 60559

program. 60560

~~(G)~~(F) The department director of job and family services 60561
shall adopt rules in accordance with Chapter 119. of the Revised 60562
Code to implement this section. The rules shall specify 60563
circumstances under which the department or the department's 60564
designee may either ~~issue a provider agreement to an independent~~ 60565
~~provider~~ approve an applicant's application or allow an 60566
independent provider to maintain an existing medicaid provider 60567
agreement ~~when~~ even though the applicant or independent provider 60568
~~has~~ is found by a criminal records check required by this section 60569
to have been convicted of, ~~has~~ pleaded guilty to, or ~~has~~ been 60570
found eligible for intervention in lieu of conviction for ~~an~~ 60571
~~offense listed or described in division (D)(1) or (2) of this~~ 60572
~~section~~ a disqualifying offense. 60573

Sec. 5111.06. (A)(1) As used in this section and in sections 60574
5111.061 and 5111.063 of the Revised Code: 60575

(a) "Provider" means any person, institution, or entity that 60576
furnishes medicaid services under a provider agreement with the 60577
department of job and family services pursuant to Title XIX of the 60578
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 60579
amended. 60580

(b) "Party" has the same meaning as in division (G) of 60581
section 119.01 of the Revised Code. 60582

(c) "Adjudication" has the same meaning as in division (D) of 60583
section 119.01 of the Revised Code. 60584

(2) This section does not apply to ~~any~~ either of the 60585
following: 60586

(a) Any action taken or decision made by the department of 60587
job and family services with respect to entering into or refusing 60588
to enter into a contract with a managed care organization pursuant 60589

to section 5111.17 of the Revised Code; 60590

(b) Any action taken by the department under sections 5111.16 60591
to 5111.177 or sections 5111.35 to 5111.62 of the Revised Code. 60592

(B) Except as provided in division (D) of this section and 60593
section 5111.914 of the Revised Code, the department shall do 60594
either of the following by issuing an order pursuant to an 60595
adjudication conducted in accordance with Chapter 119. of the 60596
Revised Code: 60597

(1) Enter into or refuse to enter into a provider agreement 60598
with a provider, or suspend, terminate, renew, or refuse to renew 60599
an existing provider agreement with a provider; 60600

(2) Take any action based upon a final fiscal audit of a 60601
provider. 60602

(C) Any party who is adversely affected by the issuance of an 60603
adjudication order under division (B) of this section may appeal 60604
to the court of common pleas of Franklin county in accordance with 60605
section 119.12 of the Revised Code. 60606

(D) The department is not required to comply with division 60607
(B)(1) of this section whenever any of the following occur: 60608

(1) The terms of a provider agreement require the provider to 60609
hold a license, permit, or certificate or maintain a certification 60610
issued by an official, board, commission, department, division, 60611
bureau, or other agency of state or federal government other than 60612
the department of job and family services, and the license, 60613
permit, certificate, or certification has been denied, revoked, 60614
not renewed, suspended, or otherwise limited. 60615

(2) The terms of a provider agreement require the provider to 60616
hold a license, permit, or certificate or maintain certification 60617
issued by an official, board, commission, department, division, 60618
bureau, or other agency of state or federal government other than 60619

the department of job and family services, and the provider has 60620
not obtained the license, permit, certificate, or certification. 60621

(3) The provider agreement is denied, terminated, or not 60622
renewed due to the termination, refusal to renew, or denial of a 60623
license, permit, certificate, or certification by an official, 60624
board, commission, department, division, bureau, or other agency 60625
of this state other than the department of job and family 60626
services, notwithstanding the fact that the provider may hold a 60627
license, permit, certificate, or certification from an official, 60628
board, commission, department, division, bureau, or other agency 60629
of another state. 60630

(4) The provider agreement is denied, terminated, or not 60631
renewed pursuant to division (C) or (F) of section 5111.03 of the 60632
Revised Code. 60633

(5) The provider agreement is denied, terminated, or not 60634
renewed due to the provider's termination, suspension, or 60635
exclusion from the medicare program established under Title XVIII 60636
of the "Social Security Act" or from another state's medicaid 60637
program and, in either case, the termination, suspension, or 60638
exclusion is binding on the provider's participation in the 60639
medicaid program in this state. 60640

(6) The provider agreement is denied, terminated, or not 60641
renewed due to the provider's pleading guilty to or being 60642
convicted of a criminal activity materially related to either the 60643
medicare or medicaid program. 60644

(7) The provider agreement is denied, terminated, or 60645
suspended as a result of action by the United States department of 60646
health and human services and that action is binding on the 60647
provider's participation in the medicaid program. 60648

(8) Pursuant to either section 5111.031 or 5111.035 of the 60649
Revised Code, the provider agreement is suspended and payments to 60650

the provider are suspended pending indictment of the provider. 60651

(9) The provider agreement is denied, terminated, or not 60652
renewed because the provider or its owner, officer, authorized 60653
agent, associate, manager, or employee has been convicted of one 60654
of the offenses that caused the provider agreement to be suspended 60655
pursuant to section 5111.031 of the Revised Code. 60656

(10) The provider agreement is converted under section 60657
5111.028 of the Revised Code from a provider agreement that is not 60658
time-limited to a provider agreement that is time-limited. 60659

(11) The provider agreement is terminated or an application 60660
for re-enrollment is denied because the provider has failed to 60661
apply for re-enrollment within the time or in the manner specified 60662
for re-enrollment pursuant to section 5111.028 of the Revised 60663
Code. 60664

(12) The provider agreement is suspended or terminated, or an 60665
application for enrollment or re-enrollment is denied, for any 60666
reason authorized or required by one or more of the following: 42 60667
C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450. 60668

(13) The provider agreement is terminated or not renewed 60669
because the provider has not billed or otherwise submitted a 60670
medicaid claim to the department for two years or longer. 60671

(14) The provider agreement is denied, terminated, or not 60672
renewed because the provider fails to provide to the department 60673
the national provider identifier assigned the provider by the 60674
national provider system pursuant to 45 C.F.R. 162.408. 60675

In the case of a provider described in division (D)(13) or 60676
(14) of this section, the department may take its proposed action 60677
against a provider agreement by sending a notice explaining the 60678
proposed action to the provider. The notice shall be sent to the 60679
provider's address on record with the department. The notice may 60680
be sent by regular mail. 60681

(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 medicaid program, increase the efficiency of the medicaid program, and promote better health outcomes. In each calendar year, one report shall be submitted not later than the last day of June and the subsequent report shall be submitted not later than the last day of December.

~~The report shall include information regarding all of the following:~~

~~(A) Provider network management;~~

~~(B) Electronic claims submission and payment systems;~~

| | |
|---|-------|
| (C) Limited provider contracts and payments based on performance; | 60713 |
| | 60714 |
| (D) Efforts to enforce third party liability; | 60715 |
| (E) Implementation of the medicaid information technology system; | 60716 |
| | 60717 |
| (F) Expansion of the medicaid data warehouse and decision support system; | 60718 |
| | 60719 |
| (G) Development of infrastructure policies for electronic health records and e-prescribing. | 60720 |
| | 60721 |
| Sec. 5111.113. (A) As used in this section: | 60722 |
| (1) "Adult care facility" has the same meaning as in section 5119.70 of the Revised Code. | 60723 |
| | 60724 |
| (2) "Commissioner" means a person appointed by a probate court under division (E) of section 2113.03 of the Revised Code to act as a commissioner. | 60725 |
| | 60726 |
| | 60727 |
| (3) (2) "Home" has the same meaning as in section 3721.10 of the Revised Code. | 60728 |
| | 60729 |
| (4) (3) "Personal needs allowance account" means an account or 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. | 60730 |
| | 60731 |
| | 60732 |
| | 60733 |
| <u>(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.</u> | 60734 |
| | 60735 |
| | 60736 |
| | 60737 |
| (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 | 60738 |
| | 60739 |
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account of a resident of the ~~facility or~~ home or facility who was 60742
a recipient of the medical assistance program no earlier than 60743
sixty days but not later than ninety days after the resident dies. 60744
The ~~adult care facility or~~ home or facility shall transfer the 60745
money even though the owner or operator of the facility or home 60746
has not been issued letters testamentary or letters of 60747
administration concerning the resident's estate. 60748

(C) If funeral or burial expenses for a resident of ~~an adult~~ 60749
~~care facility or a~~ home or residential facility who has died have 60750
not been paid and the only resource the resident had that could be 60751
used to pay for the expenses is the money in the resident's 60752
personal needs allowance account, or all other resources of the 60753
resident are inadequate to pay the full cost of the expenses, the 60754
money in the resident's personal needs allowance account shall be 60755
used to pay for the expenses rather than being transferred to the 60756
department of job and family services pursuant to division (B) of 60757
this section. 60758

(D) If, not later than sixty days after a resident of ~~an~~ 60759
~~adult care facility or a~~ home or residential facility dies, 60760
letters testamentary or letters of administration are issued, or 60761
an application for release from administration is filed under 60762
section 2113.03 of the Revised Code, concerning the resident's 60763
estate, the owner or operator of the ~~facility or~~ home or facility 60764
shall transfer the money in the resident's personal needs 60765
allowance account to the administrator, executor, commissioner, or 60766
person who filed the application for release from administration. 60767

(E) The transfer or use of money in a resident's personal 60768
needs allowance account in accordance with division (B), (C), or 60769
(D) of this section discharges and releases the ~~adult care~~ 60770
~~facility or~~ home or residential facility, and the owner or 60771
operator of the ~~facility or~~ home, from any claim for the money 60772
from any source. 60773

(F) If, sixty-one or more days after a resident of ~~an adult~~ 60774
~~care facility or a home or residential facility~~ dies, letters 60775
testamentary or letters of administration are issued, or an 60776
application for release from administration under section 2113.03 60777
of the Revised Code is filed, concerning the resident's estate, 60778
the department of job and family services shall transfer the funds 60779
to the administrator, executor, commissioner, or person who filed 60780
the application, unless the department is entitled to recover the 60781
money under the medicaid estate recovery program instituted under 60782
section 5111.11 of the Revised Code. 60783

Sec. 5111.171. ~~(A)~~ The department of job and family services 60784
may provide financial incentive awards to managed care 60785
organizations under contract with the department pursuant to 60786
section 5111.17 of the Revised Code that meet or exceed 60787
performance standards specified in provider agreements or rules 60788
adopted by the department. The department may specify in a 60789
contract with a managed care organization the amounts of financial 60790
incentive awards, methodology for distributing awards, types of 60791
awards, and standards for administration by the department. 60792

~~(B) There is hereby created in the state treasury the health 60793
care compliance fund. The fund shall consist of all fines imposed 60794
on and collected from managed care organizations for failure to 60795
meet performance standards or other requirements specified in 60796
provider agreements or rules adopted by the department. All 60797
investment earnings of the fund shall be credited to the fund. 60798
Moneys credited to the fund shall be used solely for the following 60799
purposes:~~ 60800

~~(1) To reimburse managed care organizations that have paid 60801
fines for failures to meet performance standards or other 60802
requirements and that have come into compliance by meeting 60803
requirements as specified by the department;~~ 60804

~~(2) To provide financial incentive awards established 60805
pursuant to division (A) of this section and specified in 60806
contracts between managed care organizations and the department. 60807~~

Sec. 5111.20. As used in sections 5111.20 to 5111.331 of the 60808
Revised Code: 60809

(A) "Allowable costs" are those costs determined by the 60810
department of job and family services to be reasonable and do not 60811
include fines paid under sections 5111.35 to 5111.61 and section 60812
5111.99 of the Revised Code. 60813

(B) "Ancillary and support costs" means all reasonable costs 60814
incurred by a nursing facility other than direct care costs, tax 60815
costs, or capital costs. "Ancillary and support costs" includes, 60816
but is not limited to, costs of activities, social services, 60817
pharmacy consultants, habilitation supervisors, qualified mental 60818
retardation professionals, program directors, medical and 60819
habilitation records, program supplies, incontinence supplies, 60820
food, enterals, dietary supplies and personnel, laundry, 60821
housekeeping, security, administration, medical equipment, 60822
utilities, liability insurance, bookkeeping, purchasing 60823
department, human resources, communications, travel, dues, license 60824
fees, subscriptions, home office costs not otherwise allocated, 60825
legal services, accounting services, minor equipment, ~~wheelchairs,~~ 60826
~~resident transportation,~~ maintenance and repairs, help-wanted 60827
advertising, informational advertising, start-up costs, 60828
organizational expenses, other interest, property insurance, 60829
employee training and staff development, employee benefits, 60830
payroll taxes, and workers' compensation premiums or costs for 60831
self-insurance claims and related costs as specified in rules 60832
adopted by the director of job and family services under section 60833
5111.02 of the Revised Code, for personnel listed in this 60834
division. "Ancillary and support costs" also means the cost of 60835

equipment, including vehicles, acquired by operating lease 60836
executed before December 1, 1992, if the costs are reported as 60837
administrative and general costs on the facility's cost report for 60838
the cost reporting period ending December 31, 1992. 60839

(C) "Capital costs" means costs of ownership and, in the case 60840
of an intermediate care facility for the mentally retarded, costs 60841
of nonextensive renovation. 60842

(1) "Cost of ownership" means the actual expense incurred for 60843
all of the following: 60844

(a) Depreciation and interest on any capital assets that cost 60845
five hundred dollars or more per item, including the following: 60846

(i) Buildings; 60847

(ii) Building improvements that are not approved as 60848
nonextensive renovations under section 5111.251 of the Revised 60849
Code; 60850

(iii) Except as provided in division (B) of this section, 60851
equipment; 60852

(iv) In the case of an intermediate care facility for the 60853
mentally retarded, extensive renovations; 60854

(v) Transportation equipment. 60855

(b) Amortization and interest on land improvements and 60856
leasehold improvements; 60857

(c) Amortization of financing costs; 60858

(d) Except as provided in division (K) of this section, lease 60859
and rent of land, building, and equipment. 60860

The costs of capital assets of less than five hundred dollars 60861
per item may be considered capital costs in accordance with a 60862
provider's practice. 60863

(2) "Costs of nonextensive renovation" means the actual 60864

expense incurred by an intermediate care facility for the mentally 60865
retarded for depreciation or amortization and interest on 60866
renovations that are not extensive renovations. 60867

(D) "Capital lease" and "operating lease" shall be construed 60868
in accordance with generally accepted accounting principles. 60869

(E) "Case-mix score" means the measure determined under 60870
section 5111.232 of the Revised Code of the relative direct-care 60871
resources needed to provide care and habilitation to a resident of 60872
a nursing facility or intermediate care facility for the mentally 60873
retarded. 60874

(F)(1) "Date of licensure," for a facility originally 60875
licensed as a nursing home under Chapter 3721. of the Revised 60876
Code, means the date specific beds were originally licensed as 60877
nursing home beds under that chapter, regardless of whether they 60878
were subsequently licensed as residential facility beds under 60879
section 5123.19 of the Revised Code. For a facility originally 60880
licensed as a residential facility under section 5123.19 of the 60881
Revised Code, "date of licensure" means the date specific beds 60882
were originally licensed as residential facility beds under that 60883
section. 60884

If nursing home beds licensed under Chapter 3721. of the 60885
Revised Code or residential facility beds licensed under section 60886
5123.19 of the Revised Code were not required by law to be 60887
licensed when they were originally used to provide nursing home or 60888
residential facility services, "date of licensure" means the date 60889
the beds first were used to provide nursing home or residential 60890
facility services, regardless of the date the present provider 60891
obtained licensure. 60892

If a facility adds nursing home beds or residential facility 60893
beds or extensively renovates all or part of the facility after 60894
its original date of licensure, it will have a different date of 60895

licensure for the additional beds or extensively renovated portion 60896
of the facility, unless the beds are added in a space that was 60897
constructed at the same time as the previously licensed beds but 60898
was not licensed under Chapter 3721. or section 5123.19 of the 60899
Revised Code at that time. 60900

(2) The definition of "date of licensure" in this section 60901
applies in determinations of the medicaid reimbursement rate for a 60902
nursing facility or intermediate care facility for the mentally 60903
retarded but does not apply in determinations of the franchise 60904
permit fee for a nursing facility or intermediate care facility 60905
for the mentally retarded. 60906

(G) "Desk-reviewed" means that costs as reported on a cost 60907
report submitted under section 5111.26 of the Revised Code have 60908
been subjected to a desk review under division (A) of section 60909
5111.27 of the Revised Code and preliminarily determined to be 60910
allowable costs. 60911

(H) "Direct care costs" means all of the following: 60912

(1)(a) Costs for registered nurses, licensed practical 60913
nurses, and nurse aides employed by the facility; 60914

(b) Costs for direct care staff, administrative nursing 60915
staff, medical directors, respiratory therapists, and except as 60916
provided in division (H)(2) of this section, other persons holding 60917
degrees qualifying them to provide therapy; 60918

(c) Costs of purchased nursing services; 60919

(d) Costs of quality assurance; 60920

(e) Costs of training and staff development, employee 60921
benefits, payroll taxes, and workers' compensation premiums or 60922
costs for self-insurance claims and related costs as specified in 60923
rules adopted by the director of job and family services in 60924
accordance with Chapter 119. of the Revised Code, for personnel 60925

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| listed in divisions (H)(1)(a), (b), and (d) of this section; | 60926 |
| (f) Costs of consulting and management fees related to direct care; | 60927 60928 |
| (g) Allocated direct care home office costs. | 60929 |
| (2) In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include costs of habilitation staff (other than habilitation supervisors), medical supplies, oxygen, over-the-counter pharmacy products, behavioral and mental health services, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, <u>wheelchairs, resident transportation,</u> and universal precautions supplies. | 60930 60931 60932 60933 60934 60935 60936 60937 60938 |
| (3) In addition to the costs specified in division (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following: | 60939 60940 60941 |
| (a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified mental retardation professionals, program directors, social services staff, activities staff, off-site day programming, psychologists and psychology assistants, and social workers and counselors; | 60942 60943 60944 60945 60946 60947 60948 |
| (b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in division (H)(3)(a) of this section. | 60949 60950 60951 60952 60953 |
| (4) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5111.02 of the Revised Code. | 60954 60955 60956 |

(I) "Fiscal year" means the fiscal year of this state, as 60957
specified in section 9.34 of the Revised Code. 60958

(J) "Franchise permit fee" means the following: 60959

(1) In the context of nursing facilities, the fee imposed by 60960
sections 3721.50 to 3721.58 of the Revised Code; 60961

(2) In the context of intermediate care facilities for the 60962
mentally retarded, the fee imposed by sections 5112.30 to 5112.39 60963
of the Revised Code. 60964

(K) "Indirect care costs" means all reasonable costs incurred 60965
by an intermediate care facility for the mentally retarded other 60966
than direct care costs, other protected costs, or capital costs. 60967
"Indirect care costs" includes but is not limited to costs of 60968
habilitation supplies, pharmacy consultants, medical and 60969
habilitation records, program supplies, incontinence supplies, 60970
food, enterals, dietary supplies and personnel, laundry, 60971
housekeeping, security, administration, liability insurance, 60972
bookkeeping, purchasing department, human resources, 60973
communications, travel, dues, license fees, subscriptions, home 60974
office costs not otherwise allocated, legal services, accounting 60975
services, minor equipment, maintenance and repairs, help-wanted 60976
advertising, informational advertising, start-up costs, 60977
organizational expenses, other interest, property insurance, 60978
employee training and staff development, employee benefits, 60979
payroll taxes, and workers' compensation premiums or costs for 60980
self-insurance claims and related costs as specified in rules 60981
adopted under section 5111.02 of the Revised Code, for personnel 60982
listed in this division. Notwithstanding division (C)(1) of this 60983
section, "indirect care costs" also means the cost of equipment, 60984
including vehicles, acquired by operating lease executed before 60985
December 1, 1992, if the costs are reported as administrative and 60986
general costs on the facility's cost report for the cost reporting 60987
period ending December 31, 1992. 60988

(L) "Inpatient days" means ~~all~~ the following: 60989

(1) In the context of a nursing facility, both of the 60990
following: 60991

(a) All days during which a resident, regardless of payment 60992
source, occupies a bed in a nursing facility ~~or intermediate care~~ 60993
~~facility for the mentally retarded~~ that is included in the nursing 60994
facility's certified capacity under Title XIX. ~~Therapeutic or~~ 60995
~~hospital leave;~~ 60996

(b) Fifty per cent of the days for which payment is made 60997
under section ~~5111.33~~ or 5111.331 of the Revised Code ~~are~~ 60998
~~considered inpatient days proportionate to the percentage of the~~ 60999
~~facility's per resident per day rate paid for those days.~~ 61000

(2) In the context of an intermediate care facility for the 61001
mentally retarded, both of the following: 61002

(a) All days during which a resident, regardless of payment 61003
source, occupies a bed in an intermediate care facility for the 61004
mentally retarded that is included in the facility's certified 61005
capacity under Title XIX; 61006

(b) All days for which payment is made under section 5111.33 61007
of the Revised Code. 61008

(M) "Intermediate care facility for the mentally retarded" 61009
means an intermediate care facility for the mentally retarded 61010
certified as in compliance with applicable standards for the 61011
medicaid program by the director of health in accordance with 61012
Title XIX. 61013

(N) "Maintenance and repair expenses" means, except as 61014
provided in division (BB)(2) of this section, expenditures that 61015
are necessary and proper to maintain an asset in a normally 61016
efficient working condition and that do not extend the useful life 61017
of the asset two years or more. "Maintenance and repair expenses" 61018

includes but is not limited to the cost of ordinary repairs such 61019
as painting and wallpapering. 61020

(O) "Medicaid days" means ~~all~~ the following: 61021

(1) In the context of a nursing facility, both of the 61022
following: 61023

(a) All days during which a resident who is a medicaid 61024
recipient eligible for nursing facility services occupies a bed in 61025
a nursing facility that is included in the nursing facility's 61026
certified capacity under Title XIX. ~~Therapeutic or hospital leave;~~ 61027

(b) Fifty per cent of the days for which payment is made 61028
under section ~~5111.33~~ or 5111.331 of the Revised Code ~~are~~ 61029
~~considered medicaid days proportionate to the percentage of the~~ 61030
~~nursing facility's per resident per day rate paid for those days.~~ 61031

(2) In the context of an intermediate care facility for the 61032
mentally retarded, both of the following: 61033

(a) All days during which a resident who is a medicaid 61034
recipient eligible for intermediate care facility for the mentally 61035
retarded services occupies a bed in an intermediate care facility 61036
for the mentally retarded that is included in the facility's 61037
certified capacity under Title XIX; 61038

(b) All days for which payment is made under section 5111.33 61039
of the Revised Code. 61040

(P) "Nursing facility" means a facility, or a distinct part 61041
of a facility, that is certified as a nursing facility by the 61042
director of health in accordance with Title XIX and is not an 61043
intermediate care facility for the mentally retarded. "Nursing 61044
facility" includes a facility, or a distinct part of a facility, 61045
that is certified as a nursing facility by the director of health 61046
in accordance with Title XIX and is certified as a skilled nursing 61047
facility by the director in accordance with Title XVIII. 61048

(Q) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded.

(R) "Other protected costs" means costs incurred by an intermediate care facility for the mentally retarded for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section 5111.02 of the Revised Code.

(S)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility or intermediate care facility for the mentally retarded:

(a) The land on which the facility is located;

(b) The structure in which the facility is located;

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the facility is located;

(d) Any lease or sublease of the land or structure on or in which the facility is located.

(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility or intermediate care facility for the mentally retarded and purchased at public issue or a regulated lender that has made a loan related to the facility unless the holder or lender operates the facility directly or through a subsidiary.

(T) "Patient" includes "resident."

(U) Except as provided in divisions (U)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.241 of the Revised Code, "per diem" means an intermediate care facility for the mentally retarded's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

(2) When calculating capital costs for the purpose of establishing rates under section 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(V) "Provider" means an operator with a provider agreement.

(W) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medicaid program.

(X) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

(Y) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(Z) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the

types of goods or services the supplier furnishes. 61141

(c) The types of goods or services are commonly obtained by 61142
other nursing facilities or intermediate care facilities for the 61143
mentally retarded from outside organizations and are not a basic 61144
element of patient care ordinarily furnished directly to patients 61145
by the facilities. 61146

(d) The charge to the provider is in line with the charge for 61147
the goods or services in the open market and no more than the 61148
charge made under comparable circumstances to others by the 61149
supplier. 61150

(AA) "Relative of owner" means an individual who is related 61151
to an owner of a nursing facility or intermediate care facility 61152
for the mentally retarded by one of the following relationships: 61153

(1) Spouse; 61154

(2) Natural parent, child, or sibling; 61155

(3) Adopted parent, child, or sibling; 61156

(4) Stepparent, stepchild, stepbrother, or stepsister; 61157

(5) Father-in-law, mother-in-law, son-in-law, 61158
daughter-in-law, brother-in-law, or sister-in-law; 61159

(6) Grandparent or grandchild; 61160

(7) Foster caregiver, foster child, foster brother, or foster 61161
sister. 61162

(BB) "Renovation" and "extensive renovation" mean: 61163

(1) Any betterment, improvement, or restoration of an 61164
intermediate care facility for the mentally retarded started 61165
before July 1, 1993, that meets the definition of a renovation or 61166
extensive renovation established in rules adopted by the director 61167
of job and family services in effect on December 22, 1992. 61168

(2) In the case of betterments, improvements, and 61169

restorations of intermediate care facilities for the mentally retarded started on or after July 1, 1993: 61170
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(a) "Renovation" means the betterment, improvement, or restoration of an intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity. 61172
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(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years. 61185
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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. 61189
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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. 61197
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(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. 61202
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(DD) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 61205
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~~(DD)~~(EE) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 61207
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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: 61209
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(1) The rate for direct care costs determined for the nursing facility under section 5111.231 of the Revised Code; 61215
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(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; 61217
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(3) The rate for tax costs determined for the nursing facility under section 5111.242 of the Revised Code; 61220
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(4) The quality incentive payment paid to the nursing facility under section 5111.244 of the Revised Code; 61222
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(5) 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; 61224
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61226

(6) The rate for capital costs determined for the nursing facility's capital costs peer group under section 5111.25 of the Revised Code. 61227
61228
61229

(B) The department shall adjust the rates otherwise 61230

determined under division (A) of this section as directed by the 61231
general assembly through the enactment of law governing medicaid 61232
payments to providers of nursing facilities, including any law 61233
that establishes factors by which the rates are to be adjusted. 61234

(C) In addition to paying a nursing facility provider the 61235
total rate determined for the nursing facility under division (A) 61236
of this section for a fiscal year, the department shall pay the 61237
provider a quality bonus under section 5111.245 of the Revised 61238
Code for that fiscal year if the provider's nursing facility is a 61239
qualifying nursing facility, as defined in that section, for that 61240
fiscal year. The quality bonus shall not be part of the total 61241
rate. 61242

Sec. 5111.23. (A) The department of job and family services 61243
shall pay a provider for each of the provider's eligible 61244
intermediate care facilities for the mentally retarded a per 61245
resident per day rate for direct care costs established 61246
prospectively for each facility. The department shall establish 61247
each facility's rate for direct care costs quarterly. 61248

(B) Each facility's rate for direct care costs shall be based 61249
on the facility's cost per case-mix unit, subject to the maximum 61250
costs per case-mix unit established under division (B)(2) of this 61251
section, from the calendar year preceding the fiscal year in which 61252
the rate is paid. To determine the rate, the department shall do 61253
all of the following: 61254

(1) Determine each facility's cost per case-mix unit for the 61255
calendar year preceding the fiscal year in which the rate will be 61256
paid by dividing the facility's desk-reviewed, actual, allowable, 61257
per diem direct care costs for that year by its average case-mix 61258
score determined under section 5111.232 of the Revised Code for 61259
the same calendar year. 61260

(2)(a) Set the maximum cost per case-mix unit for each peer 61261

group of intermediate care facilities for the mentally retarded 61262
with more than eight beds specified in rules adopted under 61263
division (F) of this section at a percentage above the cost per 61264
case-mix unit of the facility in the group that has the group's 61265
median medicaid ~~inpatient~~ day for the calendar year preceding the 61266
fiscal year in which the rate will be paid, as calculated under 61267
division (B)(1) of this section, that is no less than the 61268
percentage calculated under division (E)(2) of this section. 61269

(b) Set the maximum cost per case-mix unit for each peer 61270
group of intermediate care facilities for the mentally retarded 61271
with eight or fewer beds specified in rules adopted under division 61272
(F) of this section at a percentage above the cost per case-mix 61273
unit of the facility in the group that has the group's median 61274
medicaid ~~inpatient~~ day for the calendar year preceding the fiscal 61275
year in which the rate will be paid, as calculated under division 61276
(B)(1) of this section, that is no less than the percentage 61277
calculated under division (E)(3) of this section. 61278

(c) In calculating the maximum cost per case-mix unit under 61279
divisions (B)(2)(a) and (b) of this section for each peer group, 61280
the department shall exclude from its calculations the cost per 61281
case-mix unit of any facility in the group that participated in 61282
the medicaid program under the same operator for less than twelve 61283
months during the calendar year preceding the fiscal year in which 61284
the rate will be paid. 61285

(3) Estimate the rate of inflation for the eighteen-month 61286
period beginning on the first day of July of the calendar year 61287
preceding the fiscal year in which the rate will be paid and 61288
ending on the thirty-first day of December of the fiscal year in 61289
which the rate will be paid, using the index specified in division 61290
(C) of this section. If the estimated inflation rate for the 61291
eighteen-month period is different from the actual inflation rate 61292
for that period, as measured using the same index, the difference 61293

shall be added to or subtracted from the inflation rate estimated 61294
under division (B)(3) of this section for the following fiscal 61295
year. 61296

(4) The department shall not recalculate a maximum cost per 61297
case-mix unit under division (B)(2) of this section or a 61298
percentage under division (E) of this section based on additional 61299
information that it receives after the maximum costs per case-mix 61300
unit or percentages are set. The department shall recalculate a 61301
maximum cost per case-mix units or percentage only if it made an 61302
error in computing the maximum cost per case-mix unit or 61303
percentage based on information available at the time of the 61304
original calculation. 61305

(C) The department shall use the following index for the 61306
purpose of division (B)(3) of this section: 61307

(1) The employment cost index for total compensation, health 61308
services component, published by the United States bureau of labor 61309
statistics; 61310

(2) If the United States bureau of labor statistics ceases to 61311
publish the index specified in division (C)(1) of this section, 61312
the index that is subsequently published by the bureau and covers 61313
nursing facilities' staff costs. 61314

(D) Each facility's rate for direct care costs shall be 61315
determined as follows for each calendar quarter within a fiscal 61316
year: 61317

(1) Multiply the lesser of the following by the facility's 61318
average case-mix score determined under section 5111.232 of the 61319
Revised Code for the calendar quarter that preceded the 61320
immediately preceding calendar quarter: 61321

(a) The facility's cost per case-mix unit for the calendar 61322
year preceding the fiscal year in which the rate will be paid, as 61323
determined under division (B)(1) of this section; 61324

(b) The maximum cost per case-mix unit established for the 61325
fiscal year in which the rate will be paid for the facility's peer 61326
group under division (B)(2) of this section; 61327

(2) Adjust the product determined under division (D)(1) of 61328
this section by the inflation rate estimated under division (B)(3) 61329
of this section. 61330

(E)(1) The department shall calculate the percentage above 61331
the median cost per case-mix unit determined under division (B)(1) 61332
of this section for the facility that has the median medicaid 61333
~~inpatient~~ day for calendar year 1992 for all intermediate care 61334
facilities for the mentally retarded with more than eight beds 61335
that would result in payment of all desk-reviewed, actual, 61336
allowable direct care costs for eighty and one-half per cent of 61337
the medicaid ~~inpatient~~ days for such facilities for calendar year 61338
1992. 61339

(2) The department shall calculate the percentage above the 61340
median cost per case-mix unit determined under division (B)(1) of 61341
this section for the facility that has the median medicaid 61342
~~inpatient~~ day for calendar year 1992 for all intermediate care 61343
facilities for the mentally retarded with eight or fewer beds that 61344
would result in payment of all desk-reviewed, actual, allowable 61345
direct care costs for eighty and one-half per cent of the medicaid 61346
~~inpatient~~ days for such facilities for calendar year 1992. 61347

(F) The director of job and family services shall adopt rules 61348
under section 5111.02 of the Revised Code that specify peer groups 61349
of intermediate care facilities for the mentally retarded with 61350
more than eight beds and intermediate care facilities for the 61351
mentally retarded with eight or fewer beds, based on findings of 61352
significant per diem direct care cost differences due to geography 61353
and facility bed-size. The rules also may specify peer groups 61354
based on findings of significant per diem direct care cost 61355
differences due to other factors which may include case-mix. 61356

(G) The department, in accordance with division (D) of 61357
section 5111.232 of the Revised Code and rules adopted under 61358
division (F) of that section, may assign case-mix scores or costs 61359
per case-mix unit if a provider fails to submit assessment data 61360
necessary to calculate an intermediate care facility for the 61361
mentally retarded's case-mix score in accordance with that 61362
section. 61363

Sec. 5111.242. (A) As used in this section+ 61364

~~(1) "Applicable, "applicable~~ calendar year" means the 61365
following: 61366

~~(a)(1)~~ For the purpose of the department of job and family 61367
services' initial determination under this section of nursing 61368
facilities' rate for tax costs, calendar year 2003; 61369

~~(b)(2)~~ For the purpose of the department's subsequent 61370
determinations under division (C) of this section of nursing 61371
facilities' rate for tax costs, the calendar year the department 61372
selects. 61373

~~(2) "Tax costs" means the costs of taxes imposed under 61374
Chapter 5751. of the Revised Code, real estate taxes, personal 61375
property taxes, and corporate franchise taxes. 61376~~

(B) The department of job and family services shall pay a 61377
provider for each of the provider's eligible nursing facilities a 61378
per resident per day rate for tax costs determined under division 61379
(C) of this section. 61380

(C) At least once every ten years, the department shall 61381
determine the rate for tax costs for each nursing facility. The 61382
rate for tax costs determined under this division for a nursing 61383
facility shall be used for subsequent years until the department 61384
redetermines it. To determine a nursing facility's rate for tax 61385
costs and except as provided in division (D) of this section, the 61386

department shall divide the nursing facility's desk-reviewed, 61387
actual, allowable tax costs paid for the applicable calendar year 61388
by the number of inpatient days the nursing facility would have 61389
had if its occupancy rate had been one hundred per cent during the 61390
applicable calendar year. 61391

(D) If a nursing facility had a credit regarding its real 61392
estate taxes reflected on its cost report for calendar year 2003, 61393
the department shall determine its rate for tax costs for the 61394
period beginning on July 1, 2010, and ending on the first day of 61395
the fiscal year for which the department first redetermines all 61396
nursing facilities' rate for tax costs under division (C) of this 61397
section by dividing the nursing facility's desk-reviewed, actual, 61398
allowable tax costs paid for calendar year 2004 by the number of 61399
inpatient days the nursing facility would have had if its 61400
occupancy rate had been one hundred per cent during calendar year 61401
2004. 61402

Sec. 5111.246. (A) Each fiscal year, the department of job 61403
and family services shall pay a critical access incentive payment 61404
to the provider of each nursing facility that qualifies as a 61405
critical access nursing facility. To qualify as a critical access 61406
nursing facility for a fiscal year, a nursing facility must meet 61407
all of the following requirements: 61408

(1) The nursing facility must be located in an area that, on 61409
December 31, 2011, was designated an empowerment zone under 61410
section 1391 of the "Internal Revenue Code of 1986," 107 Stat. 61411
543, 26 U.S.C. 1391, as amended. 61412

(2) The nursing facility must have an occupancy rate of at 61413
least eighty-five per cent as of the last day of the calendar year 61414
preceding the fiscal year. 61415

(3) The nursing facility must have a medicaid utilization 61416
rate of at least sixty-five per cent as of the last day of the 61417

calendar year preceding the fiscal year. 61418

(B) A critical access nursing facility's critical access 61419
incentive payment for a fiscal year shall equal five per cent of 61420
the portion of the nursing facility's total rate for the fiscal 61421
year that is the sum of the rates and payment identified in 61422
divisions (A)(1) to (4) and (6) of section 5111.222 of the Revised 61423
Code. 61424

Sec. 5111.254. (A) The department of job and family services 61425
shall establish initial rates for a nursing facility with a first 61426
date of licensure that is on or after July 1, 2006, including a 61427
facility that replaces one or more existing facilities, or for a 61428
nursing facility with a first date of licensure before that date 61429
that was initially certified for the medicaid program on or after 61430
that date, in the following manner: 61431

(1) The rate for direct care costs shall be the product of 61432
the cost per case-mix unit determined under division (D) of 61433
section 5111.231 of the Revised Code for the facility's peer group 61434
and the nursing facility's case-mix score. For the purpose of 61435
division (A)(1) of this section, the nursing facility's case-mix 61436
score shall be the following: 61437

(a) Unless the nursing facility replaces an existing nursing 61438
facility that participated in the medicaid program immediately 61439
before the replacement nursing facility begins participating in 61440
the medicaid program, the median annual average case-mix score for 61441
the nursing facility's peer group; 61442

(b) If the nursing facility replaces an existing nursing 61443
facility that participated in the medicaid program immediately 61444
before the replacement nursing facility begins participating in 61445
the medicaid program, the semiannual case-mix score most recently 61446
determined under section 5111.232 of the Revised Code for the 61447
replaced nursing facility as adjusted, if necessary, to reflect 61448

any difference in the number of beds in the replaced and 61449
replacement nursing facilities. 61450

(2) The rate for ancillary and support costs shall be the 61451
rate for the facility's peer group determined under division (D) 61452
of section 5111.24 of the Revised Code. 61453

(3) The rate for capital costs shall be the rate for the 61454
facility's peer group determined under division (D) of section 61455
5111.25 of the Revised Code. 61456

(4) The rate for tax costs ~~as defined in section 5111.242 of~~ 61457
~~the Revised Code~~ shall be the median rate for tax costs for the 61458
facility's peer group in which the facility is placed under 61459
division (C) of section 5111.24 of the Revised Code. 61460

(5) The quality incentive payment shall be the mean payment 61461
made to nursing facilities under section 5111.244 of the Revised 61462
Code. 61463

(B) Subject to division (C) of this section, the department 61464
shall adjust the rates established under division (A) of this 61465
section effective the first day of July, to reflect new rate 61466
calculations for all nursing facilities under sections 5111.20 to 61467
5111.331 of the Revised Code. 61468

(C) If a rate for direct care costs is determined under this 61469
section for a nursing facility using the median annual average 61470
case-mix score for the nursing facility's peer group, the rate 61471
shall be redetermined to reflect the replacement nursing 61472
facility's actual semiannual case-mix score determined under 61473
section 5111.232 of the Revised Code after the nursing facility 61474
submits its first two quarterly assessment data that qualify for 61475
use in calculating a case-mix score in accordance with rules 61476
authorized by division (E) of section 5111.232 of the Revised 61477
Code. If the nursing facility's quarterly submissions do not 61478
qualify for use in calculating a case-mix score, the department 61479

shall continue to use the median annual average case-mix score for 61480
the nursing facility's peer group in lieu of the nursing 61481
facility's semiannual case-mix score until the nursing facility 61482
submits two consecutive quarterly assessment data that qualify for 61483
use in calculating a case-mix score. 61484

Sec. 5111.862. (A) As used in this section: 61485

"Hospital long-term care unit" has the same meaning as in 61486
section 3721.50 of the Revised Code. 61487

"Nursing facility" has the same meaning as in section 5111.20 61488
of the Revised Code. 61489

"Ohio home care program" means the medicaid waiver component 61490
created under section 5111.861 of the Revised Code. 61491

"Residential treatment facility" means a residential facility 61492
licensed by the department of mental health under section 5119.22 61493
of the Revised Code, or an institution certified by the department 61494
of job and family services under section 5103.03 of the Revised 61495
Code, that serves children and either has more than sixteen beds 61496
or is part of a campus of multiple facilities or institutions 61497
that, combined, have a total of more than sixteen beds. 61498

(B) Subject to division (C) of section 5111.861 of the 61499
Revised Code, the department of job and family services shall 61500
establish a home first component for the Ohio home care program. 61501
An individual is eligible for the Ohio home care program's home 61502
first component if the individual has been determined to be 61503
eligible for the Ohio home care program and at least one of the 61504
following applies: 61505

(1) If the individual is under twenty-one years of age, the 61506
individual received inpatient hospital services for at least 61507
fourteen consecutive days, or had at least three inpatient 61508
hospital stays during the twelve months, immediately preceding the 61509

date the individual applies for the Ohio home care program. 61510

(2) If the individual is at least twenty-one but less than 61511
sixty years of age, the individual received inpatient hospital 61512
services for at least fourteen consecutive days immediately 61513
preceding the date the individual applies for the Ohio home care 61514
program. 61515

(3) The individual received private duty nursing services 61516
under the medicaid program for at least twelve consecutive months 61517
immediately preceding the date the individual applies for the Ohio 61518
home care program. 61519

(4) The individual does not reside in a nursing facility or 61520
hospital long-term care unit at the time the individual applies 61521
for the Ohio home care program but is at risk of imminent 61522
admission to a nursing facility or hospital long-term care unit 61523
due to a documented loss of a primary caregiver. 61524

(5) The individual resides in a nursing facility at the time 61525
the individual applies for the Ohio home care program. 61526

(6) At the time the individual applies for the Ohio home care 61527
program, the individual participates in the money follows the 61528
person demonstration project authorized by section 6071 of the 61529
"Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, 61530
and either resides in a residential treatment facility or 61531
inpatient hospital setting. 61532

(C) An individual determined to be eligible for the home 61533
first component of the Ohio home care program shall be enrolled in 61534
the Ohio home care program in accordance with rules adopted under 61535
section 5111.85 of the Revised Code. 61536

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 61537
of the Revised Code: 61538

"Home and community-based services" has the same meaning as 61539

in section 5123.01 of the Revised Code. 61540

"ICF/MR services" means intermediate care facility for the 61541
mentally retarded services covered by the medicaid program that an 61542
intermediate care facility for the mentally retarded provides to a 61543
resident of the facility who is a medicaid recipient eligible for 61544
medicaid-covered intermediate care facility for the mentally 61545
retarded services. 61546

"Intermediate care facility for the mentally retarded" means 61547
an intermediate care facility for the mentally retarded that is 61548
certified as in compliance with applicable standards for the 61549
medicaid program by the director of health in accordance with 61550
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 61551
U.S.C. 1396, as amended, and licensed as a residential facility 61552
under section 5123.19 of the Revised Code. 61553

"Residential facility" has the same meaning as in section 61554
5123.19 of the Revised Code. 61555

(B) For the purpose of increasing the number of slots 61556
available for home and community-based services and subject to 61557
sections 5111.877 and 5111.878 of the Revised Code, the operator 61558
of an intermediate care facility for the mentally retarded may 61559
convert some or all of the beds in the facility from providing 61560
ICF/MR services to providing home and community-based services if 61561
all of the following requirements are met: 61562

(1) The operator provides the directors of health, ~~job and~~ 61563
~~family services,~~ and developmental disabilities at least ninety 61564
days' notice of the operator's intent to make the conversion. 61565

(2) The operator complies with the requirements of sections 61566
5111.65 to 5111.689 of the Revised Code regarding a voluntary 61567
termination as defined in section 5111.65 of the Revised Code if 61568
those requirements are applicable. 61569

(3) If the operator intends to convert all of the facility's 61570

beds, the operator notifies each of the facility's residents that 61571
the facility is to cease providing ICF/MR services and inform each 61572
resident that the resident may do either of the following: 61573

(a) Continue to receive ICF/MR services by transferring to 61574
another facility that is an intermediate care facility for the 61575
mentally retarded willing and able to accept the resident if the 61576
resident continues to qualify for ICF/MR services; 61577

(b) Begin to receive home and community-based services 61578
instead of ICF/MR services from any provider of home and 61579
community-based services that is willing and able to provide the 61580
services to the resident if the resident is eligible for the 61581
services and a slot for the services is available to the resident. 61582

(4) If the operator intends to convert some but not all of 61583
the facility's beds, the operator notifies each of the facility's 61584
residents that the facility is to convert some of its beds from 61585
providing ICF/MR services to providing home and community-based 61586
services and inform each resident that the resident may do either 61587
of the following: 61588

(a) Continue to receive ICF/MR services from any provider of 61589
ICF/MR services that is willing and able to provide the services 61590
to the resident if the resident continues to qualify for ICF/MR 61591
services; 61592

(b) Begin to receive home and community-based services 61593
instead of ICF/MR services from any provider of home and 61594
community-based services that is willing and able to provide the 61595
services to the resident if the resident is eligible for the 61596
services and a slot for the services is available to the resident. 61597

(5) The operator meets the requirements for providing home 61598
and community-based services, including the following: 61599

(a) Such requirements applicable to a residential facility if 61600
the operator maintains the facility's license as a residential 61601

facility; 61602

(b) Such requirements applicable to a facility that is not 61603
licensed as a residential facility if the operator surrenders the 61604
facility's license as a residential facility license under section 61605
5123.19 of the Revised Code. 61606

(6) The ~~directors~~ director of developmental disabilities ~~and~~ 61607
~~job and family services approve~~ approves the conversion. 61608

(C) A decision by the ~~directors~~ director of developmental 61609
disabilities to approve or refuse to approve a proposed conversion 61610
of beds is final. In making a decision, the ~~directors~~ director 61611
shall consider all of the following: 61612

(1) The fiscal impact on the facility if some but not all of 61613
the beds are converted; 61614

(2) The fiscal impact on the medical assistance program; 61615

(3) The availability of home and community-based services. 61616

(D) The notice provided to the directors under division 61617
(B)(1) of this section shall specify whether some or all of the 61618
facility's beds are to be converted. If some but not all of the 61619
beds are to be converted, the notice shall specify how many of the 61620
facility's beds are to be converted and how many of the beds are 61621
to continue to provide ICF/MR services. The notice to the director 61622
of developmental disabilities shall specify whether the operator 61623
wishes to surrender the facility's license as a residential 61624
facility under section 5123.19 of the Revised Code. 61625

(E)(1) If the ~~directors~~ director of developmental 61626
disabilities ~~and job and family services approve~~ approves a 61627
conversion under division (C) of this section, the director of 61628
health shall do the following: 61629

(a) Terminate the certification of the intermediate care 61630
facility for the mentally retarded if the notice specifies that 61631

all of the facility's beds are to be converted; 61632

(b) Reduce the facility's certified capacity by the number of 61633
beds being converted if the notice specifies that some but not all 61634
of the beds are to be converted. 61635

(2) The director of health shall notify the director of job 61636
and family services of the termination or reduction. On receipt of 61637
the director of health's notice, the director of job and family 61638
services shall do the following: 61639

(a) Terminate the operator's medicaid provider agreement that 61640
authorizes the operator to provide ICF/MR services at the facility 61641
if the facility's certification was terminated; 61642

(b) Amend the operator's medicaid provider agreement to 61643
reflect the facility's reduced certified capacity if the 61644
facility's certified capacity is reduced. 61645

(3) In the case of action taken under division (E)(2)(a) of 61646
this section, the operator is not entitled to notice or a hearing 61647
under Chapter 119. of the Revised Code before the director of job 61648
and family services terminates the medicaid provider agreement. 61649

Sec. 5111.877. The director of job and family services may 61650
seek approval from the United States secretary of health and human 61651
services for not more than a total of ~~two~~ five hundred slots for 61652
home and community-based services for the purposes of sections 61653
5111.874, 5111.875, and 5111.876 of the Revised Code. 61654

Sec. 5111.878. Not more than a total of ~~one~~ five hundred beds 61655
may be converted from providing ICF/MR services to providing home 61656
and community-based services under sections 5111.874 and 5111.875 61657
of the Revised Code. 61658

Sec. 5111.894. (A) Subject to division (C)(2) of section 61659
5111.89 of the Revised Code, the department of aging shall 61660

establish a home first component of the assisted living program 61661
under which eligible individuals may be enrolled in the 61662
medicaid-funded component of the assisted living program in 61663
accordance with this section. An individual is eligible for the 61664
assisted living program's home first component if both of the 61665
following apply: 61666

(1) The individual has been determined to be eligible for the 61667
medicaid-funded component of the assisted living program. 61668

(2) At least one of the following applies: 61669

(a) The individual has been admitted to a nursing facility. 61670

(b) A physician has determined and documented in writing that 61671
the individual has a medical condition that, unless the individual 61672
is enrolled in home and community-based services such as the 61673
assisted living program, will require the individual to be 61674
admitted to a nursing facility within thirty days of the 61675
physician's determination. 61676

(c) The individual has been hospitalized and a physician has 61677
determined and documented in writing that, unless the individual 61678
is enrolled in home and community-based services such as the 61679
assisted living program, the individual is to be transported 61680
directly from the hospital to a nursing facility and admitted. 61681

(d) Both of the following apply: 61682

(i) The individual is the subject of a report made under 61683
section 5101.61 of the Revised Code regarding abuse, neglect, or 61684
exploitation or such a report referred to a county department of 61685
job and family services under section 5126.31 of the Revised Code 61686
or has made a request to a county department for protective 61687
services as defined in section 5101.60 of the Revised Code. 61688

(ii) A county department of job and family services and an 61689
area agency on aging have jointly documented in writing that, 61690

unless the individual is enrolled in home and community-based 61691
services such as the assisted living program, the individual 61692
should be admitted to a nursing facility. 61693

~~(c) The individual resided in a residential care facility for 61694
at least six months immediately before applying for the 61695
medicaid-funded component of the assisted living program and is at 61696
risk of imminent admission to a nursing facility because the costs 61697
of residing in the residential care facility have depleted the 61698
individual's resources such that the individual is unable to 61699
continue to afford the cost of residing in the residential care 61700
facility. 61701~~

(B) Each month, each area agency on aging shall identify 61702
individuals residing in the area that the area agency on aging 61703
serves who are eligible for the home first component of the 61704
assisted living program. When an area agency on aging identifies 61705
such an individual and determines that there is a vacancy in a 61706
residential care facility participating in the medicaid-funded 61707
component of the assisted living program that is acceptable to the 61708
individual, the agency shall notify the long-term care 61709
consultation program administrator serving the area in which the 61710
individual resides. The administrator shall determine whether the 61711
assisted living program is appropriate for the individual and 61712
whether the individual would rather participate in the assisted 61713
living program than continue or begin to reside in a nursing 61714
facility. If the administrator determines that the assisted living 61715
program is appropriate for the individual and the individual would 61716
rather participate in the assisted living program than continue or 61717
begin to reside in a nursing facility, the administrator shall so 61718
notify the department of aging. On receipt of the notice from the 61719
administrator, the department shall approve the individual's 61720
enrollment in the medicaid-funded component of the assisted living 61721
program regardless of the unified waiting list established under 61722

section 173.404 of the Revised Code, unless the enrollment would 61723
cause the component to exceed any limit on the number of 61724
individuals who may participate in the component as set by the 61725
United States secretary of health and human services in the 61726
assisted living waiver. 61727

Sec. 5111.941. (A) The ~~medicaid revenue and collections~~ 61728
health care/medicaid support and recoveries fund is hereby created 61729
in the state treasury. ~~Except~~ All of the following shall be 61730
credited to the fund: 61731

(1) Except as otherwise provided by statute or as authorized 61732
by the controlling board, the nonfederal share of all 61733
medicaid-related revenues, collections, and recoveries ~~shall be~~ 61734
~~credited to the fund;~~ 61735

(2) Federal reimbursement received for payment adjustments 61736
made pursuant to section 1923 of the "Social Security Act," 101 61737
Stat. 1330-148 (1987), 42 U.S.C. 1396r-4, as amended, under the 61738
medicaid program to state mental health hospitals maintained and 61739
operated by the department of mental health under division (A) of 61740
section 5119.02 of the Revised Code; 61741

(3) Revenues the department of job and family services 61742
receives from another state agency for medicaid services pursuant 61743
to an interagency agreement, other than such revenues required to 61744
be deposited into the health care services administration fund 61745
created under section 5111.94 of the Revised Code; 61746

(4) The first seven hundred fifty thousand dollars the 61747
department receives in a fiscal year for performing eligibility 61748
verification services necessary for compliance with the 61749
independent, certified audit requirement of 42 C.F.R. 455.304. 61750

(B) The department of job and family services shall use money 61751
credited to the ~~medicaid revenue and collections~~ health 61752

care/medicaid support and recoveries fund to pay for medicaid 61753
services and contracts. 61754

Sec. 5111.946. (A) As used in this section, "medicaid managed 61755
care organization" means a managed care organization under 61756
contract with the department of job and family services pursuant 61757
to section 5111.17 of the Revised Code. 61758

(B) There is hereby created in the state treasury the health 61759
care compliance fund. All of the following shall be credited to 61760
the fund: 61761

(1) All fines imposed on and collected from medicaid managed 61762
care organizations for failure to meet performance standards or 61763
other requirements specified in provider agreements or rules 61764
adopted by the department; 61765

(2) Money the department receives in a fiscal year for 61766
performing eligibility verification services necessary for 61767
compliance with the independent, certified audit requirement of 42 61768
C.F.R. 455.304, other than the amounts of such money that are to 61769
be credited to the medicaid revenue and collections fund under 61770
section 5111.941 of the Revised Code; 61771

(3) All investment earnings of the fund. 61772

(C) Money credited to the health care compliance fund shall 61773
be used solely for the following purposes: 61774

(1) To reimburse medicaid managed care organizations that 61775
have paid fines for failure to meet performance standards or other 61776
requirements and have come into compliance by meeting requirements 61777
as specified by the department; 61778

(2) To provide financial incentive awards established 61779
pursuant to section 5111.171 of the Revised Code and specified in 61780
contracts between medicaid managed care organizations and the 61781
department. 61782

Sec. 5111.96. (A) As used in this section, "MFP demonstration project" means a money follows the person demonstration project that the United States secretary of health and human services is authorized to award under section 6071 of the Deficit Reduction Act of 2005 (Pub. L. No. 109-171, as amended).

(B) To the extent funds are available under an MFP demonstration project awarded to the department of job and family services, the director of job and family services may operate the helping Ohioans move, expanding (HOME) choice demonstration component of the medicaid program to transition medicaid recipients who qualify for the demonstration component to community settings. The director may adopt rules in accordance with Chapter 119. of the Revised Code for the administration and operation of the demonstration component.

Sec. 5111.97. (A) As used in this section, ~~"nursing:~~

(1) "Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(2) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(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 61813
participation in the project, but may limit the number of project 61814
participants. 61815

The director shall ensure that an assessment of an applicant 61816
is conducted as soon as practicable to determine whether the 61817
applicant is eligible for participation in the project. To the 61818
maximum extent possible, the assessment and eligibility 61819
determination shall be completed not later than the date that 61820
occurs six months after the applicant became a recipient of 61821
medicaid-funded nursing facility services. 61822

(C) To be eligible for benefits under the project, a medicaid 61823
recipient must satisfy all of the following requirements: 61824

(1) The medicaid recipient must be a recipient of 61825
medicaid-funded nursing facility services, at the time of applying 61826
for the project benefits. 61827

(2) If the project is established as a nonmedicaid program, 61828
the medicaid recipient must be able to remain in the community as 61829
a result of receiving project benefits and the projected cost of 61830
the benefits to the project does not exceed eighty per cent of the 61831
average monthly medicaid cost of a medicaid recipient in a nursing 61832
facility. 61833

(3) If the project is integrated into a ~~medicaid-funded~~ home 61834
and community-based services medicaid waiver ~~program~~ component, 61835
the medicaid recipient must meet the waiver component's enrollment 61836
criteria. 61837

(D) If the director establishes the Ohio access success 61838
project, the benefits provided under the project may include 61839
payment of all of the following: 61840

(1) The first month's rent in a community setting; 61841

(2) Rental deposits; 61842

(3) Utility deposits; 61843

(4) Moving expenses; 61844

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting. 61845
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(E) If the project is established as a nonmedicaid program, no participant may receive more than two thousand dollars' worth of benefits under the project. 61848
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(F) If the department of job and family services enters into a contract with an entity to provide fiscal management services regarding the project, the contract may provide for a portion of a participant's benefits under the project to be paid to the contracting entity. The contract shall specify the portion to be paid to the contracting entity. 61851
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(G) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 95 Stat. 286 809 (1965 1981), 42 U.S.C. 1396n, as amended, to create a ~~medicaid~~ home and community-based services medicaid waiver program component to serve individuals who meet the criteria for participation in the Ohio access success project. ~~The~~ 61857
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(H) The director may adopt rules under in accordance with Chapter 119. of the Revised Code for the administration and operation of the project. If the project is integrated into a home and community-based services medicaid waiver component, the rules shall be adopted under section 5111.85 of the Revised Code. 61864
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Sec. 5112.31. The department of job and family services shall do all of the following: 61869
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(A) Subject to section 5112.331 of the Revised Code and divisions (B) and (C) of this section and for the purposes 61871
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specified in ~~sections 5112.37 and~~ section 5112.371 of the Revised Code, assess for each fiscal year each intermediate care facility for the mentally retarded a franchise permit fee equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year.

(B) If the total amount of the franchise permit fee assessed under division (A) of this section for a fiscal year exceeds the indirect guarantee percentage of the actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year and seventy-five per cent or more of the total number of intermediate care facilities for the mentally retarded receive enhanced medicaid payments or other state payments equal to seventy-five per cent or more of their total franchise permit fee assessments, do both of the following:

(1) Recalculate the assessments under division (A) of this section using a per bed per day rate equal to the indirect guarantee percentage of actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under division (A) of this section and the amount recalculated under division (B)(1) of this section as a credit against the assessments imposed under division (A) of this section for the subsequent fiscal year.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by

sections 5112.30 to 5112.39 of the Revised Code would be an 61904
impermissible health care-related tax under section 1903(w) of the 61905
"Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C.A.- 61906
1396b(w), as amended, take all necessary actions to cease 61907
implementation of those sections in accordance with rules adopted 61908
under section 5112.39 of the Revised Code. 61909

Sec. 5112.33. (A) Not later than the fifteenth day of August 61910
of each year, the department of job and family services shall 61911
determine the annual franchise permit fee for each intermediate 61912
care facility for the mentally retarded in accordance with section 61913
5112.31 of the Revised Code. 61914

(B) Not later than the first day of September of each year, 61915
the department shall mail to each intermediate care facility for 61916
the mentally retarded notice of the amount of the franchise permit 61917
fee the facility has been assessed under section 5112.31 of the 61918
Revised Code. 61919

(C) ~~Each~~ Subject to section 5112.331 of the Revised Code, 61920
each intermediate care facility for the mentally retarded shall 61921
pay its fee under section 5112.31 of the Revised Code to the 61922
department in quarterly installment payments not later than 61923
forty-five days after the last day of each September, December, 61924
March, and June. 61925

Sec. 5112.331. (A) If, during the period beginning on the 61926
first day of May of a calendar year and ending on the first day of 61927
January of the immediately following calendar year, the operator 61928
of an intermediate care facility for the mentally retarded 61929
converts, pursuant to section 5111.874 of the Revised Code, one or 61930
more of the facility's beds to providing home and community-based 61931
services, the department of job and family services shall do the 61932
following: 61933

(1) If the facility's medicaid certification is terminated because of the conversion, terminate the facility's franchise permit fee effective on the first day of the quarter immediately following the quarter in which the department receives the notice of the conversion from the director of health; 61934
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(2) If the facility's certified capacity under medicaid is reduced because of the conversion, redetermine the facility's franchise permit fee in accordance with division (B) of this section for the second half of the fiscal year for which the fee is assessed. 61939
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(B)(1) To redetermine an intermediate care facility for the mentally retarded's franchise permit fee, the department shall multiply the franchise permit fee rate by the product of the following: 61944
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(a) The number of the facility's beds that remain certified under Title XIX of the "Social Security Act" as of the date the conversion takes effect; 61948
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(b) The number of days in the second half of the fiscal year for which the redetermination is made. 61951
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(2) The intermediate care facility for the mentally retarded shall pay its franchise permit fee as redetermined under division (B)(1) of this section in installment payments not later than forty-five days after the last day of March and June of the fiscal year for which the redetermination is made. 61953
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Sec. 5112.341. (A) In addition to assessing a penalty pursuant to section 5112.34 of the Revised Code, the department of job and family services may do any of the following if an intermediate care facility for the mentally retarded fails to pay the full amount of a franchise permit fee installment when due: 61958
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(1) Withhold an amount less than or equal to the installment 61963

and penalty assessed under section 5112.34 of the Revised Code 61964
from a medicaid payment due the facility until the facility pays 61965
the installment and penalty; 61966

(2) Offset an amount less than or equal to the installment 61967
and penalty assessed under section 5112.34 of the Revised Code 61968
from a ~~Medicaid~~ medicaid payment due the ~~nursing~~ facility ~~or~~ 61969
~~hospital~~; 61970

(3) Terminate the facility's medicaid provider agreement. 61971

(B) The department may offset a medicaid payment under 61972
division (A) of this section without providing notice to the 61973
intermediate care facility for the mentally retarded and without 61974
conducting an adjudication under Chapter 119. of the Revised Code. 61975

Sec. 5112.37. There is hereby created in the state treasury 61976
the home and community-based services for the mentally retarded 61977
and developmentally disabled fund. ~~Eighty one and seventy seven~~ 61978
~~hundredths per cent of all~~ All installment payments and penalties 61979
paid by an intermediate care facility for the mentally retarded 61980
under sections 5112.33 and 5112.34 of the Revised Code ~~for state~~ 61981
~~fiscal year 2012~~ shall be deposited into the fund. ~~Eighty two and~~ 61982
~~two tenths per cent of all installment payments and penalties paid~~ 61983
~~by an intermediate care facility for the mentally retarded under~~ 61984
~~sections 5112.33 and 5112.34 of the Revised Code for state fiscal~~ 61985
~~year 2013 and thereafter shall be deposited into the fund. The~~ 61986
~~department~~ As soon as possible after the end of each quarter, the 61987
director of job and family services shall ~~distribute~~ certify to 61988
the director of budget and management the amount of money in that 61989
is in the fund ~~in accordance with rules adopted under section~~ 61990
~~5112.39 of the Revised Code as of the last day of that quarter.~~ 61991
~~The departments of job and family services and developmental~~ 61992
~~disabilities shall use the money for the medicaid program~~ 61993
~~established under Chapter 5111. of the Revised Code and home and~~ 61994

~~community based services to mentally retarded and developmentally disabled persons. On receipt of a certification, the director of budget and management shall transfer the amount so certified from the home and community-based services for the mentally retarded and developmentally disabled fund to the department of developmental disabilities operating and services fund created under section 5112.371 of the Revised Code.~~ 61995
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Sec. 5112.371. There is hereby created in the state treasury the department of developmental disabilities operating and services fund. ~~All installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code that are not deposited into the home and community based services for the mentally retarded and developmentally disabled fund shall be deposited into the department of developmental disabilities operating and services~~ The fund shall consist of the money transferred to it under section 5112.37 of the Revised Code. The money in the fund shall be used for the expenses of the programs that the department of developmental disabilities administers and the department's administrative expenses. 62002
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Sec. 5112.39. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do ~~all~~ both of the following: 62015
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(A) Prescribe the actions the department will take to cease implementation of sections 5112.30 to 5112.39 of the Revised Code if the United States secretary of health and human services determines that the franchise permit fee imposed under section 5112.31 of the Revised Code is an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 105 Stat. 620 1793 (1935 1991), 42 U.S.C.A. 1396b(w), as amended; 62018
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~~(B) Establish the method of distributing the money in the home and community based services for the mentally retarded and developmentally disabled fund created by section 5112.37 of the Revised Code;~~ 62026
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~~(C)~~ Establish any other requirements or procedures the director considers necessary to implement sections 5112.30 to 5112.39 of the Revised Code. 62030
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Sec. 5119.22. (A)~~(1)~~ As used in this section and section 5119.221 of the Revised Code: 62033
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~~(a)~~(1) "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care. 62035
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(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services. 62040
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(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. 62042
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(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. 62045
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(5) "Community mental health agency" means a community mental health agency as defined in division (H) of section 5122.01 of the Revised Code. 62048
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~~(b)~~(6) "Community mental health services" means any of the services listed in section 340.09 of the Revised Code. 62051
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~~(c)~~(7) "Operator" means the person that is responsible for the administration and management of a residential facility. 62053
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(8) "Personal care services" means services including, but not limited to, the following:

~~(i)~~(a) Assisting residents with activities of daily living;

~~(ii)~~(b) Assisting residents with self-administration of medication in accordance with rules adopted under this section;

~~(iii)~~(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.

"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)~~(8) of this section to be considered to be providing personal care services.

~~(d)~~(9) "Residential facility" means a publicly or privately operated home or facility that provides one of the following:

~~(i) Room and board~~ (a) Accommodations, supervision, personal care services, and community mental health services to for one or more of the following unrelated persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner:

(i) Adults with mental illness;

(ii) Persons of any age with severe mental disabilities;

(iii) Children with serious emotional disturbances or in need of mental health services.

~~(ii) Room and board~~ (b) Accommodations, supervision, and personal care services to for three to sixteen unrelated adults or for one or two of the following unrelated persons:

(i) Persons of any age with mental illness or persons with

~~severe mental disabilities~~ who are referred by or are receiving 62085
community mental health services from a community mental health 62086
agency, hospital, or practitioner; 62087

~~(iii) Room and board to~~ (ii) Persons of any age with severe 62088
mental disabilities who are referred by or are receiving community 62089
mental health services from a community mental health agency, 62090
hospital, or practitioner; 62091

(iii) Adults who are recipients under the residential state 62092
supplement program. 62093

(c) Accommodations for five or more of the following 62094
unrelated persons: 62095

(i) Adults with mental illness ~~or persons with severe mental~~ 62096
~~disabilities~~ who are referred by or are receiving community mental 62097
health services from a community mental health agency, hospital, 62098
or practitioner; 62099

(ii) Adults with severe mental disabilities who are referred 62100
by or are receiving community mental health services from a 62101
community mental health agency, hospital, or practitioner. 62102

~~The following are not residential facilities (10)~~ 62103
"Residential facility" does not include any of the following: the 62104
~~residence of a relative or guardian of a mentally ill individual,~~ 62105
a 62106

(a) A hospital subject to licensure under section 5119.20 of 62107
the Revised Code, ~~a;~~ 62108

(b) A residential facility as defined in licensed under 62109
section 5123.19 of the Revised Code, ~~a facility providing care for~~ 62110
~~a child in the custody of a public children services agency or a~~ 62111
~~private agency certified under section 5103.03 of the Revised~~ 62112
~~Code, a foster care facility~~ or otherwise regulated by the 62113
department of developmental disabilities; 62114

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| <u>(c) An institution or association subject to certification</u> | 62115 |
| <u>under section 5103.03 of the Revised Code, an adult care facility</u> | 62116 |
| <u>subject to licensure under sections 5119.70 to 5119.88 of the</u> | 62117 |
| <u>Revised Code, and a;</u> | 62118 |
| <u>(d) A facility operated by a hospice care program licensed</u> | 62119 |
| <u>under section 3712.04 of the Revised Code that is used exclusively</u> | 62120 |
| <u>for care of hospice patients;</u> | 62121 |
| <u>(e) A nursing home, residential care facility, or home for</u> | 62122 |
| <u>the aging subject to licensure under as defined in section 3721.02</u> | 62123 |
| <u>of the Revised Code;</u> | 62124 |
| <u>(f) An alcohol or drug addiction program as defined in</u> | 62125 |
| <u>section 3793.01 of the Revised Code;</u> | 62126 |
| <u>(g) A facility licensed to provide methadone treatment under</u> | 62127 |
| <u>section 3793.11 of the Revised Code;</u> | 62128 |
| <u>(h) Any facility that receives funding for operating costs</u> | 62129 |
| <u>from the department of development under any program established</u> | 62130 |
| <u>to provide emergency shelter housing or transitional housing for</u> | 62131 |
| <u>the homeless;</u> | 62132 |
| <u>(i) A terminal care facility for the homeless that has</u> | 62133 |
| <u>entered into an agreement with a hospice care program under</u> | 62134 |
| <u>section 3712.07 of the Revised Code;</u> | 62135 |
| <u>(j) A facility approved by the veterans administration under</u> | 62136 |
| <u>section 104(a) of the "Veterans Health Care Amendments of 1983,"</u> | 62137 |
| <u>97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for</u> | 62138 |
| <u>the placement and care of veterans.</u> | 62139 |
| <u>(11) "Supervision" means any of the following:</u> | 62140 |
| <u>(a) Observing a resident to ensure the resident's health,</u> | 62141 |
| <u>safety, and welfare while the resident engages in activities of</u> | 62142 |
| <u>daily living or other activities;</u> | 62143 |
| <u>(b) Reminding a resident to perform or complete an activity,</u> | 62144 |

such as reminding a resident to engage in personal hygiene or 62145
other self-care activities; 62146

(c) Assisting a resident in making or keeping an appointment. 62147

(12) "Unrelated" means that a resident is not related to the 62148
owner or operator of a residential facility or to the owner's or 62149
operator's spouse as a parent, grandparent, child, stepchild, 62150
grandchild, brother, sister, niece, nephew, aunt, or uncle, or as 62151
the child of an aunt or uncle. 62152

~~(2)(B)~~ Nothing in division (A)~~(1)(d)(9)~~ of this section shall 62153
be construed to permit personal care services to be imposed on a 62154
resident who is capable of performing the activity in question 62155
without assistance. 62156

~~(3)(C)~~ Except in the case of a residential facility described 62157
in division (A)~~(1)(d)(i)(9)(a)~~ of this section, members of the 62158
staff of a residential facility shall not administer medication to 62159
the facility's residents, all medication taken by residents of a 62160
residential facility shall be self-administered, and no person 62161
shall be admitted to or retained by a residential facility unless 62162
the person is capable of taking the person's own medication and 62163
biologicals, as determined in writing by the person's personal 62164
physician. Members of the staff of a residential facility but 62165
do any of the following: 62166

~~(a)(1)~~ Remind a resident when to take medication and watch to 62167
ensure that the resident follows the directions on the container; 62168

~~(b)(2)~~ Assist a resident in the self-administration of 62169
medication by taking the medication from the locked area where it 62170
is stored, in accordance with rules adopted pursuant to this 62171
section, and handing it to the resident. If the resident is 62172
physically unable to open the container, a staff member may open 62173
the container for the resident. 62174

~~(e)(3)~~ Assist a physically impaired but mentally alert 62175

resident, such as a resident with arthritis, cerebral palsy, or 62176
Parkinson's disease, in removing oral or topical medication from 62177
containers and in consuming or applying the medication, upon 62178
request by or with the consent of the resident. If a resident is 62179
physically unable to place a dose of medicine to the resident's 62180
mouth without spilling it, a staff member may place the dose in a 62181
container and place the container to the mouth of the resident. 62182

~~(B) Every (D)(1) Except as provided in division (D)(2) of~~ 62183
~~this section, a person operating or desiring seeking to operate a~~ 62184
~~residential facility shall apply for licensure of the facility to~~ 62185
~~the department of mental health and. The application shall be~~ 62186
~~submitted by the operator. When applying for the license, the~~ 62187
~~applicant shall pay to the department the application fee~~ 62188
~~specified in rules adopted under division (L) of this section. The~~ 62189
~~fee is nonrefundable.~~ 62190

~~The department shall send a copy of the an application to the~~ 62191
~~ADAMHS board of alcohol, drug addiction, and mental health~~ 62192
~~services whose service district includes serving the county in~~ 62193
~~which the person operates or desires seeks to operate a~~ 62194
~~residential the facility. The ADAMHS board shall review such~~ 62195
~~applications and recommend approval or disapproval to the~~ 62196
~~department. Each recommendation shall be consistent with the~~ 62197
~~board's community mental health plan.~~ 62198

~~(C) the application and provide to the department any~~ 62199
~~information about the applicant or the facility that the board~~ 62200
~~would like the department to consider in reviewing the~~ 62201
~~application.~~ 62202

(2) A person may not apply for a license to operate a 62203
residential facility if the person is or has been the owner, 62204
operator, or manager of a residential facility for which a license 62205
to operate was revoked or for which renewal of a license was 62206
refused for any reason other than nonpayment of the license 62207

renewal fee, unless both of the following conditions are met: 62208

(a) A period of not less than two years has elapsed since the date the director of mental health issued the order revoking or refusing to renew the facility's license. 62209
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(b) The director's revocation or refusal to renew the license was not based on an act or omission at the facility that violated a resident's right to be free from abuse, neglect, or exploitation. 62212
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(E)(1) Any person may operate a residential facility providing accommodations and personal care services for one to five unrelated 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 residential district or zone, including any single-family residential district or zone of any political subdivision. Such 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. 62216
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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 62226
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| <u>zoning ordinance or resolution to:</u> | 62240 |
| <u>(a) Require the architectural design and site layout of the</u> | 62241 |
| <u>home and the location, nature, and height of any walls, screens,</u> | 62242 |
| <u>and fences to be compatible with adjoining land uses and the</u> | 62243 |
| <u>residential character of the neighborhood;</u> | 62244 |
| <u>(b) Require compliance with yard, parking, and sign</u> | 62245 |
| <u>regulation.</u> | 62246 |
| <u>(3) Divisions (E)(1) and (2) of this section do not affect</u> | 62247 |
| <u>any right of a political subdivision to permit a person to operate</u> | 62248 |
| <u>a residential facility licensed under this section in a</u> | 62249 |
| <u>single-family residential district or zone under conditions</u> | 62250 |
| <u>established by the political subdivision.</u> | 62251 |
| <u>(4)(a) Notwithstanding divisions (E)(1) and (2) of this</u> | 62252 |
| <u>section and except as provided in division (E)(4)(b) of this</u> | 62253 |
| <u>section, a political subdivision that has enacted a zoning</u> | 62254 |
| <u>ordinance or resolution may limit the excessive concentration of</u> | 62255 |
| <u>licensed residential facilities that meet the criteria specified</u> | 62256 |
| <u>in division (A)(9)(b) of this section.</u> | 62257 |
| <u>(b) Division (E)(4)(a) of this section does not authorize a</u> | 62258 |
| <u>political subdivision to prevent or limit the continued existence</u> | 62259 |
| <u>and operation of residential facilities existing and operating on</u> | 62260 |
| <u>the effective date of this section and that meet the criteria</u> | 62261 |
| <u>specified in division (A)(9)(b) of this section. A political</u> | 62262 |
| <u>subdivision may consider the existence of such facilities for the</u> | 62263 |
| <u>purpose of limiting the excessive concentration of such facilities</u> | 62264 |
| <u>that meet the criteria specified in division (A)(9)(b) of this</u> | 62265 |
| <u>section that are not existing and operating on the effective date</u> | 62266 |
| <u>of this section.</u> | 62267 |
| <u>(F)(1) The department of mental health shall inspect and</u> | 62268 |
| <u>license the operation of residential facilities. The department</u> | 62269 |
| <u>shall consider the past record of the facility and the applicant</u> | 62270 |

or licensee in arriving at its licensure decision. ~~The~~ 62271

The department may issue full, probationary, and interim 62272
licenses. A full license shall expire two years after the date of 62273
issuance, a probationary license shall expire in a shorter period 62274
of time as ~~prescribed by rule~~ specified in rules adopted by the 62275
director of mental health ~~pursuant to Chapter 119. of the Revised~~ 62276
~~Code~~ under division (L) of this section, and an interim license 62277
shall expire ninety days after the date of issuance. ~~The~~ A license 62278
may be renewed in accordance with rules adopted by the director 62279
under division (L) of this section. The renewal application shall 62280
be submitted by the operator. When applying for renewal of a 62281
license, the applicant shall pay to the department the renewal fee 62282
specified in rules adopted under division (L) of this section. The 62283
fee is nonrefundable. 62284

(2) The department may issue an order suspending the 62285
admission of residents to the facility or refuse to issue or renew 62286
and may revoke a license if it finds the facility is not in 62287
compliance with rules adopted by the ~~department~~ director pursuant 62288
to division ~~(G)~~(L) of this section or if any facility operated by 62289
the applicant or licensee has ~~had~~ been cited for repeated 62290
violations of statutes or rules during the period of previous 62291
licenses. Proceedings initiated to deny applications for full or 62292
probationary licenses or to revoke such licenses are governed by 62293
Chapter 119. of the Revised Code. 62294

~~(D)~~(G) The department may issue an interim license to operate 62295
a residential facility if both of the following conditions are 62296
met: 62297

(1) The department determines that the closing of or the need 62298
to remove residents from another residential facility has created 62299
an emergency situation requiring immediate removal of residents 62300
and an insufficient number of licensed beds are available. 62301

(2) The residential facility applying for an interim license 62302
meets standards established for interim licenses in rules adopted 62303
by the director under ~~Chapter 119. of the Revised Code~~ division 62304
(L) of this section. 62305

An interim license shall be valid for ninety days and may be 62306
renewed by the director no more than twice. Proceedings initiated 62307
to deny applications for or to revoke interim licenses under this 62308
division are not subject to Chapter 119. of the Revised Code. 62309

~~(E)~~(H)(1) The department of mental health may conduct an 62310
inspection of a residential facility as follows: 62311

~~(1)~~(a) Prior to ~~the~~ issuance of a license ~~to a prospective~~ 62312
~~operator~~ for the facility; 62313

~~(2)~~(b) Prior to ~~the~~ renewal of ~~any operator's~~ the facility's 62314
license; 62315

~~(3)~~(c) To determine whether ~~a~~ the facility has completed a 62316
plan of correction required pursuant to ~~this~~ division (H)(2) of 62317
this section and corrected deficiencies to the satisfaction of the 62318
department and in compliance with this section and rules adopted 62319
pursuant to it; 62320

~~(4)~~(d) Upon complaint by any individual or agency; 62321

~~(5)~~(e) At any time the director considers an inspection to be 62322
necessary in order to determine whether ~~a residential~~ the facility 62323
is in compliance with this section and rules adopted pursuant to 62324
this section. 62325

(2) In conducting inspections the department may conduct an 62326
on-site examination and evaluation of the residential facility, 62327
and its personnel, activities, and services. The department shall 62328
have access to examine and copy all records, accounts, and any 62329
other documents relating to the operation of the residential 62330
facility, including records pertaining to residents, and shall 62331

have access to the facility in order to conduct interviews with 62332
the operator, staff, and residents. Following each inspection and 62333
review, the department shall complete a report listing any 62334
deficiencies, and including, when appropriate, a time table within 62335
which the operator shall correct the deficiencies. The department 62336
may require the operator to submit a plan of correction describing 62337
how the deficiencies will be corrected. 62338

~~(F)~~(I) No person shall do any of the following: 62339

(1) Operate a residential facility unless the facility holds 62340
a valid license; 62341

(2) Violate any of the conditions of licensure after having 62342
been granted a license; 62343

(3) Interfere with a state or local official's inspection or 62344
investigation of a residential facility; 62345

(4) Violate any of the provisions of this section or any 62346
rules adopted pursuant to this section. 62347

~~(G)~~(J) The following may enter a residential facility at any 62348
time: 62349

(1) Employees designated by the director of mental health; 62350

(2) Employees of an ADAMHS board when a resident of the 62351
facility is receiving services from a community mental health 62352
agency under contract with that ADAMHS board or another ADAMHS 62353
board; 62354

(3) Employees of a community mental health agency under any 62355
of the following circumstances: 62356

(a) When the agency has a client residing in the facility; 62357

(b) When the agency is acting as an agent of an ADAMHS board 62358
other than the board with which it is under contract. 62359

The employees specified in division (J) of this section shall 62360

be afforded access to examine and copy all records, accounts, and 62361
any other documents relating to the operation of the residential 62362
facility, including records pertaining to residents. 62363

(K) Employees of the department of mental health may enter, 62364
for the purpose of investigation, any institution, residence, 62365
facility, or other structure which has been reported to the 62366
department as, or that the department has reasonable cause to 62367
believe is, operating as a residential facility without a valid 62368
license. 62369

(L) The director shall adopt and may amend and rescind rules 62370
pursuant to Chapter 119. of the Revised Code, ~~prescribing minimum~~ 62371
governing the licensing and operation of residential facilities. 62372
The rules shall establish all of the following: 62373

(1) ~~Minimum~~ standards for the health, safety, adequacy, and 62374
cultural ~~specificity and sensitivity~~ competency of treatment of 62375
and services for persons in residential facilities; ~~establishing~~ 62376
~~procedures~~ 62377

(2) ~~Procedures~~ for the issuance, renewal or revocation of the 62378
licenses of ~~such~~ residential facilities; ~~establishing the~~ 62379

(3) ~~Procedures~~ for conducting criminal records checks for 62380
prospective operators, staff, and other individuals who, if 62381
employed by a residential facility, would have unsupervised access 62382
to facility residents; 62383

(4) The fee to be paid when applying for a new residential 62384
facility license or renewing the license; 62385

(5) ~~Procedures~~ for the operator of a residential facility to 62386
follow when notifying the ADAMHS board serving the county in which 62387
the facility is located when the facility is serving residents 62388
with mental illness or severe mental disability, including the 62389
circumstances under which the operator is required to make such a 62390
notification; 62391

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|---|-------|
| <u>(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;</u> | 62392 |
| | 62393 |
| <u>(7) Measures to be taken by residential facilities relative to residents' medication;</u> | 62394 |
| | 62395 |
| <u>(8) Requirements relating to preparation of special diets;</u> | 62396 |
| <u>(9) The maximum number of residents of who may be served in a residential facility; establishing the</u> | 62397 |
| | 62398 |
| <u>(10) The rights of residents of residential facilities and procedures to protect such rights; and requiring</u> | 62399 |
| | 62400 |
| <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> | 62401 |
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| <u>(12) Standards and procedures under which the director may waive the requirements of any of the rules adopted.</u> | 62407 |
| | 62408 |
| (H) The department may investigate any facility that has been reported to the department or that the department has reasonable cause to believe is operating as a residential facility without a valid license. | 62409 |
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| (I) <u>(M)(1)</u> The department may withhold the source of any complaint reported as a violation of this act <u>section</u> when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction. | 62413 |
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| (J) <u>(2)</u> Any person who makes a complaint under division (M)(1) | 62421 |

of this section, or any person who participates in an 62422
administrative or judicial proceeding resulting from such a 62423
complaint, is immune from civil liability and is not subject to 62424
criminal prosecution, other than for perjury, unless the person 62425
has acted in bad faith or with malicious purpose. 62426

(N)(1) The director of mental health may petition the court 62427
of common pleas of the county in which a residential facility is 62428
located for an order enjoining any person from operating a 62429
residential facility without a license or from operating a 62430
licensed facility when, in the director's judgment, there is a 62431
real and present danger to the health or safety of any of the 62432
occupants of the facility. The court shall have jurisdiction to 62433
grant such injunctive relief upon a showing that the respondent 62434
named in the petition is operating a facility without a license or 62435
there is a real and present danger to the health or safety of any 62436
residents of the facility. 62437

~~(K) Whoever violates division (F) of this section or any rule~~ 62438
~~adopted under this section is liable for a civil penalty of one~~ 62439
~~hundred dollars for the first offense; for each subsequent~~ 62440
~~offense, such violator is liable for a civil penalty of five~~ 62441
~~hundred dollars. If the violator does not pay, the attorney~~ 62442
~~general, upon the request of the director of mental health, shall~~ 62443
~~bring a civil action to collect the penalty. Fines collected~~ 62444
~~pursuant to this section shall be deposited into the state~~ 62445
~~treasury to the credit of the mental health sale of goods and~~ 62446
~~services fund.~~ 62447

(2) When the court grants injunctive relief in the case of a 62448
facility operating without a license, the court shall issue, at a 62449
minimum, an order enjoining the facility from admitting new 62450
residents to the facility and an order requiring the facility to 62451
assist with the safe and orderly relocation of the facility's 62452
residents. 62453

(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. 62454
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(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. 62458
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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. 62463
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The director of mental health with respect to all facilities and programs established and operated under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons, shall do all of the following: 62468
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(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of Chapter 340. and sections 5119.61 to 5119.63 of the Revised Code. 62472
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(1) The rules shall include ~~all of the following:~~ 62475

~~(a) Rules~~ rules governing a community mental health agency's services under section 340.091 of the Revised Code to an individual referred to the agency under division ~~(C)~~(D)(2) of section 5119.69 of the Revised Code: 62476
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~~(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services under section 5119.88 of the Revised Code regarding~~ 62480
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~~referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:~~

~~(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A) of section 5119.88 of the Revised Code;~~

~~(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.~~

~~(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of mental health under section 5119.87 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.~~

(2) Rules may be adopted to govern the method of paying a community mental health facility, as defined in section 5111.023 of the Revised Code, for providing services listed in division (B) of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state mental health plan, including the needs of residents of the district now residing in state mental institutions, and make

recommendations for needed improvements to boards of alcohol, drug 62515
addiction, and mental health services; 62516

(C) Provide consultative services to community mental health 62517
agencies with the knowledge and cooperation of the board of 62518
alcohol, drug addiction, and mental health services; 62519

(D) At the director's discretion, provide to boards of 62520
alcohol, drug addiction, and mental health services state or 62521
federal funds, in addition to those allocated under section 62522
5119.62 of the Revised Code, for special programs or projects the 62523
director considers necessary but for which local funds are not 62524
available; 62525

(E) Establish criteria by which a board of alcohol, drug 62526
addiction, and mental health services reviews and evaluates the 62527
quality, effectiveness, and efficiency of services provided 62528
through its community mental health plan. The criteria shall 62529
include requirements ensuring appropriate service utilization. The 62530
department shall assess a board's evaluation of services and the 62531
compliance of each board with this section, Chapter 340. or 62532
section 5119.62 of the Revised Code, and other state or federal 62533
law and regulations. The department, in cooperation with the 62534
board, periodically shall review and evaluate the quality, 62535
effectiveness, and efficiency of services provided through each 62536
board. The department shall collect information that is necessary 62537
to perform these functions. 62538

(F) To the extent the director determines necessary and after 62539
consulting with boards of alcohol, drug addiction, and mental 62540
health services, develop and operate, or contract for the 62541
operation of, a community mental health information system or 62542
systems. 62543

Boards of alcohol, drug ~~abuse~~ addiction, and mental health 62544
services shall submit information requested by the department in 62545

the form and manner prescribed by the department. Information 62546
collected by the department shall include, but not be limited to, 62547
all of the following: 62548

(1) Information regarding units of services provided in whole 62549
or in part under contract with a board, including diagnosis and 62550
special needs, demographic information, the number of units of 62551
service provided, past treatment, financial status, and service 62552
dates in accordance with rules adopted by the department in 62553
accordance with Chapter 119. of the Revised Code; 62554

(2) Financial information other than price or price-related 62555
data regarding expenditures of boards and community mental health 62556
agencies, including units of service provided, budgeted and actual 62557
expenses by type, and sources of funds. 62558

Boards shall submit the information specified in division 62559
(F)(1) of this section no less frequently than annually for each 62560
client, and each time the client's case is opened or closed. The 62561
department shall not collect any personal information from the 62562
boards except as required or permitted by state or federal law for 62563
purposes related to payment, health care operations, program and 62564
service evaluation, reporting activities, research, system 62565
administration, and oversight. 62566

(G) Review each board's community mental health plan 62567
submitted pursuant to section 340.03 of the Revised Code and 62568
approve or disapprove it in whole or in part. Periodically, in 62569
consultation with representatives of boards and after considering 62570
the recommendations of the medical director, the director shall 62571
issue criteria for determining when a plan is complete, criteria 62572
for plan approval or disapproval, and provisions for conditional 62573
approval. The factors that the director considers may include, but 62574
are not limited to, the following: 62575

(1) The mental health needs of all persons residing within 62576

the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.

If the approval of a plan remains in dispute, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. The director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

Sec. 5119.69. (A) As used in this section and section 5119.691 of the Revised Code:

(1) "Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.

(2) "Long-term care consultation program administrator" or

"administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity. 62607
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(3) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 62611
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(4) "Residential state supplement administrative agency" means the department of mental health or, if the department designates an entity under division (C) of this section for a particular area, the designated entity. 62613
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(5) "Residential state supplement program" means the program administered pursuant to this section. 62617
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(B) The department of mental health shall implement the residential state supplement program under which the state supplements the supplemental security income payments received by aged, blind, or disabled adults under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as amended. Residential state supplement payments shall be used for the provision of accommodations, supervision, and personal care services to supplemental security income recipients who the department determines are at risk of needing institutional care. 62619
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~~(B)~~(C) In implementing the program, the department may designate one or more entities to be responsible for providing administrative services regarding the program. The department may designate an entity to be a residential state supplement administrative agency under this division either by entering into a contract with the entity to serve in that capacity or by otherwise delegating to the entity the responsibility to serve in that capacity. 62628
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~~(C)~~(D) For an individual to be eligible for residential state supplement payments, all of the following must be the case: 62636
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(1) Except as provided by division ~~(G)~~(H) of this section, 62638
the individual must reside in one of the following: 62639

(a) An adult foster home certified under section 5119.692 of 62640
the Revised Code; 62641

(b) A home or facility, other than a nursing home or nursing 62642
home unit of a home for the aging, licensed by the department of 62643
health under Chapter 3721. of the Revised Code ~~or the department~~ 62644
~~of mental health under sections 5119.70 to 5119.88 of the Revised~~ 62645
~~Code;~~ 62646

(c) A residential facility as defined in division 62647
~~(A)(1)(d)(ii)(9)(b)~~ of section 5119.22 of the Revised Code 62648
licensed by the department of mental health; 62649

(d) An apartment or room used to provide community mental 62650
health housing services certified by the department of mental 62651
health under section 5119.611 of the Revised Code and approved by 62652
a board of alcohol, drug addiction, and mental health services 62653
under division (A)(14) of section 340.03 of the Revised Code. 62654

(2) A residential state supplement administrative agency must 62655
have determined that the environment in which the individual will 62656
be living while receiving the payments is appropriate for the 62657
individual's needs. If the individual is eligible for supplemental 62658
security income payments or social security disability insurance 62659
benefits because of a mental disability, the residential state 62660
supplement administrative agency shall refer the individual to a 62661
community mental health agency for ~~the community mental health~~ 62662
~~agency to issue in accordance with an assessment under division~~ 62663
~~(A) of section 340.091 of the Revised Code a recommendation on~~ 62664
~~whether the residential state supplement administrative agency~~ 62665
~~should determine that the environment in which the individual will~~ 62666
~~be living while receiving the payments is appropriate for the~~ 62667
~~individual's needs.~~ 62668

(3) The individual satisfies all eligibility requirements 62669
established by rules adopted under division ~~(D)~~(E) of this 62670
section. 62671

~~(D)~~(E) The directors of mental health and job and family 62672
services shall adopt rules in accordance with section 111.15 of 62673
the Revised Code as necessary to implement the residential state 62674
supplement program. 62675

To the extent permitted by Title XVI of the "Social Security 62676
Act," and any other provision of federal law, the director of job 62677
and family services may adopt rules establishing standards for 62678
adjusting the eligibility requirements concerning the level of 62679
impairment a person must have so that the amount appropriated for 62680
the program by the general assembly is adequate for the number of 62681
eligible individuals. The rules shall not limit the eligibility of 62682
disabled persons solely on a basis classifying disabilities as 62683
physical or mental. The director of job and family services also 62684
may adopt rules that establish eligibility standards for aged, 62685
blind, or disabled individuals who reside in one of the homes or 62686
facilities specified in division ~~(C)~~(D)(1) of this section but 62687
who, because of their income, do not receive supplemental security 62688
income payments. The rules may provide that these individuals may 62689
include individuals who receive other types of benefits, 62690
including, social security disability insurance benefits provided 62691
under Title II of the "Social Security Act," 49 Stat. 620 (1935), 62692
42 U.S.C.A. 401, as amended. Notwithstanding division ~~(A)~~(B) of 62693
this section, such payments may be made if funds are available for 62694
them. 62695

The director of mental health may adopt rules establishing 62696
the method to be used to determine the amount an eligible 62697
individual will receive under the program. The amount the general 62698
assembly appropriates for the program may be a factor included in 62699
the method that director establishes. 62700

~~(E)~~(F) The county department of job and family services of 62701
the county in which an applicant for the residential state 62702
supplement program resides shall determine whether the applicant 62703
meets income and resource requirements for the program. 62704

~~(F)~~(G) The department of mental health shall maintain a 62705
waiting list of any individuals eligible for payments under this 62706
section but not receiving them because moneys appropriated to the 62707
department for the purposes of this section are insufficient to 62708
make payments to all eligible individuals. An individual may apply 62709
to be placed on the waiting list even though the individual does 62710
not reside in one of the homes or facilities specified in division 62711
~~(C)~~(D)(1) of this section at the time of application. The director 62712
of mental health, by rules adopted in accordance with Chapter 119. 62713
of the Revised Code, may specify procedures and requirements for 62714
placing an individual on the waiting list and priorities for the 62715
order in which individuals placed on the waiting list are to begin 62716
to receive residential state supplement payments. The rules 62717
specifying priorities may give priority to individuals placed on 62718
the waiting list on or after July 1, 2006, who receive 62719
supplemental security income benefits under Title XVI of the 62720
"Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1381, as 62721
amended. The rules shall not affect the place on the waiting list 62722
of any person who was on the list on July 1, 2006. The rules 62723
specifying priorities may also set additional priorities based on 62724
living arrangement, such as whether an individual resides in a 62725
facility listed in division ~~(C)~~(D)(1) of this section or has been 62726
admitted to a nursing facility. 62727

~~(G)~~(H) An individual in a licensed or certified living 62728
arrangement receiving state supplementation on November 15, 1990, 62729
under former section 5101.531 of the Revised Code shall not become 62730
ineligible for payments under this section solely by reason of the 62731
individual's living arrangement as long as the individual remains 62732

in the living arrangement in which the individual resided on 62733
November 15, 1990. 62734

~~(H)~~(I) The department of mental health shall notify each 62735
person denied approval for payments under this section of the 62736
person's right to a hearing. On request, the hearing shall be 62737
provided in accordance with Chapter 119. of the Revised Code. 62738

Sec. 5119.691. ~~(A) As used in this section:~~ 62739

~~"Long term care consultation program" means the program the 62740
department of aging is required to develop under section 173.42 of 62741
the Revised Code.~~ 62742

~~"Long term care consultation program administrator" or 62743
"administrator" means the department of aging or, if the 62744
department contracts with an area agency on aging or other entity 62745
to administer the long term care consultation program for a 62746
particular area, that agency or entity.~~ 62747

~~"Nursing facility" has the same meaning as in section 5111.20 62748
of the Revised Code.~~ 62749

~~"Residential state supplement administrative agency" means an 62750
entity designated as such by the department of mental health under 62751
section 5119.69 of the Revised Code.~~ 62752

~~"Residential state supplement program" means the program 62753
administered pursuant to section 5119.69 of the Revised Code.~~ 62754

~~(B)~~ On a periodic schedule determined by the department of 62755
mental health, each residential state supplement administrative 62756
agency shall determine whether individuals who reside in the area 62757
that the agency serves and are on a waiting list for the 62758
residential state supplement program have been admitted to a 62759
nursing facility. If a residential state supplement administrative 62760
agency determines that such an individual has been admitted to a 62761
nursing facility, the agency shall notify the long-term care 62762

consultation program administrator serving the area in which the 62763
individual resides about the determination. The administrator 62764
shall determine whether the residential state supplement program 62765
is appropriate for the individual and whether the individual would 62766
rather participate in the program than continue residing in the 62767
nursing facility. If the administrator determines that the 62768
residential state supplement program is appropriate for the 62769
individual and the individual would rather participate in the 62770
program than continue residing in the nursing facility, the 62771
administrator shall so notify the department of mental health. On 62772
receipt of the notice from the administrator, the department of 62773
mental health shall approve the individual's enrollment in the 62774
residential state supplement program in accordance with the 62775
priorities specified in rules adopted under division ~~(F)~~(G) of 62776
section 5119.69 of the Revised Code. Each quarter, the department 62777
of mental health shall certify to the director of budget and 62778
management the estimated increase in costs of the residential 62779
state supplement program resulting from enrollment of individuals 62780
in the program pursuant to this section. 62781

Sec. 5119.692. As used in this section, "adult foster home" 62782
means a residence, other than a residential facility licensed 62783
under section 5119.22 of the Revised Code, in which accommodations 62784
and personal care services, as defined in section ~~5119.70~~ 5119.22 62785
of the Revised Code, are provided to one or two adults who are 62786
unrelated to the owners of the residence. 62787

The department of mental health shall adopt rules in 62788
accordance with Chapter 119. of the Revised Code establishing 62789
standards for the certification of adult foster homes. The 62790
department or its designee shall certify adult foster homes that 62791
apply for certification and meet the standards established by the 62792
department. 62793

Sec. 5119.99. ~~(A)~~ Whoever violates section 5119.21 of the Revised Code is guilty of a misdemeanor of the first degree. 62794
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~~(B) Whoever violates division (A)(1) of section 5119.86 of the Revised Code shall be fined two thousand dollars for a first offense; for each subsequent offense, such person shall be fined five thousand dollars.~~ 62796
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~~(C) Whoever violates division (C) of section 5119.81 or division (A)(2), (3), (4), (5), or (6), (B), (C), (D), (E), or (F) of section 5119.86 of the Revised Code shall be fined five hundred dollars for a first offense; for each subsequent offense, such person shall be fined one thousand dollars.~~ 62800
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Sec. 5120.036. (A) The department of rehabilitation and correction shall provide risk reduction programming and treatment for inmates whom a court under section 2929.143 of the Revised Code recommends serve a risk reduction sentence and who meet the eligibility criteria described in division (B) of this section. 62805
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(B) If an offender is sentenced to a term of imprisonment in a state correctional institution and the sentencing court recommended that the offender serve a risk reduction sentence, the department of rehabilitation and correction shall conduct a validated and objective assessment of the person's needs and risk of reoffending. If the offender cooperates with the risk assessment and agrees to participate in any programming or treatment ordered by the department, the department shall provide programming and treatment to the offender to address the risks and needs identified in the assessment. 62810
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(C) If the department determines that an offender serving a term of incarceration for whom the sentencing court recommended a risk reduction sentence under section 2929.143 of the Revised Code has successfully completed the assessment and treatment or 62820
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programming required by the department under division (B) of this 62824
section, the department shall release the offender to ~~supervised~~ 62825
~~release~~ post-release control under one or more post-release 62826
control sanctions after the offender has served each mandatory 62827
prison term to which the offender was sentenced, if any, and a 62828
minimum of eighty per cent of the aggregated nonmandatory prison 62829
terms to which the offender was sentenced. The placement under 62830
post-release control sanctions shall be under terms set by the 62831
parole board in accordance with section 2967.28 of the Revised 62832
Code and shall be subject to the provisions of that section and 62833
sections 2929.141 and 2967.15 of the Revised Code regarding 62834
violation of post-release control sanctions. No mandatory prison 62835
term shall be reduced by, or as a result of, an offender's service 62836
of a risk reduction sentence. The department shall notify the 62837
sentencing court that the offender has successfully completed the 62838
terms of the risk reduction sentence at least thirty days prior to 62839
the date upon which the offender is to be released. 62840

(D) As used in this section: 62841

(1) "Mandatory prison term" has the same meaning as in 62842
section 2929.01 of the Revised Code. 62843

(2) "Nonmandatory prison term" means a prison term that is 62844
not a mandatory prison term. 62845

(3) "Post-release control" and "post-release control 62846
sanction" have the same meanings as in section 2967.01 of the 62847
Revised Code. 62848

Sec. 5120.105. (A) ~~The department of administrative services~~ 62849
Ohio facilities construction commission shall provide for the 62850
construction of a halfway house facility in conformity with 62851
Chapter 153. of the Revised Code, except that construction 62852
services may be provided by the department of rehabilitation and 62853
correction. 62854

(B) The director of rehabilitation and correction may enter 62855
into an agreement with a halfway house organization for the 62856
management of a halfway house facility. The halfway house 62857
organization that occupies, will occupy, or is responsible for the 62858
management of a halfway house facility shall pay the costs of 62859
management of and general building services for the halfway house 62860
facility as provided in an agreement between the department of 62861
rehabilitation and correction and the halfway house organization. 62862

(C) No state funds, including state bond proceeds, shall be 62863
spent on the construction of a halfway house facility under 62864
sections 5120.102 to 5120.105 of the Revised Code, unless the 62865
general assembly has specifically authorized the spending of money 62866
on, or has made an appropriation to the department of 62867
rehabilitation and correction for, the construction of the halfway 62868
house facility or rental payments relating to the financing of the 62869
construction of that facility. An authorization to spend money or 62870
an appropriation for planning a halfway house facility does not 62871
constitute an authorization to spend money on, or an appropriation 62872
for, the construction of that facility. Capital funds for the 62873
construction of halfway house facilities under sections 5120.102 62874
to 5120.105 of the Revised Code shall be paid from the adult 62875
correctional building fund created in division (F) of section 62876
154.24 of the Revised Code. 62877

Sec. 5120.132. (A) There is hereby created in the state 62878
treasury the prisoner programs fund. The director of 62879
rehabilitation and correction shall deposit in the fund all moneys 62880
received by the department from commissions on telephone systems 62881
~~established for the use of prisoners and services provided to~~ 62882
prisoners in relation to electronic mail, prisoner trust fund 62883
deposits, and the purchase of music, digital music players, and 62884
other electronic devices. The money in the fund shall be used only 62885
to pay for the costs of the following: 62886

(1) The purchase of material, supplies, and equipment used in any library program, educational program, religious program, recreational program, or pre-release program operated by the department for the benefit of prisoners;

(2) The construction, alteration, repair, or reconstruction of buildings and structures owned by the department for use in any library program, educational program, religious program, recreational program, or pre-release program operated by the department for the benefit of prisoners;

(3) The payment of salary, wages, and other compensation to employees of the department who are employed in any library program, educational program, religious program, recreational program, or pre-release program operated by the department for the benefit of prisoners;

(4) The compensation to vendors that contract with the department for the provision of services for the benefit of prisoners in any library program, educational program, religious program, recreational program, or pre-release program operated by the department;

(5) The payment of prisoner release payments in an appropriate amount as determined pursuant to rule;

(6) The purchase of other goods and the payment of other services that are determined, in the discretion of the director, to be goods and services that may provide additional benefit to prisoners.

(B) The director shall establish rules for the operation of the prisoner programs fund.

Sec. 5120.66. (A) Within ninety days after November 23, 2005, but not before January 1, 2006, the department of rehabilitation and correction shall establish and operate on the internet a

database that contains all of the following: 62917

(1) For each inmate in the custody of the department under a 62918
sentence imposed for a conviction of or plea of guilty to any 62919
offense, all of the following information: 62920

(a) The inmate's name; 62921

(b) For each offense for which the inmate was sentenced to a 62922
prison term or term of imprisonment and is in the department's 62923
custody, the name of the offense, the Revised Code section of 62924
which the offense is a violation, the gender of each victim of the 62925
offense if those facts are known, whether each victim of the 62926
offense was an adult or child if those facts are known, the range 62927
of the possible prison terms or term of imprisonment that could 62928
have been imposed for the offense, the actual prison term or term 62929
of imprisonment imposed for the offense, the county in which the 62930
offense was committed, the date on which the inmate began serving 62931
the prison term or term of imprisonment imposed for the offense, 62932
and either the date on which the inmate will be eligible for 62933
parole relative to the offense if the prison term or term of 62934
imprisonment is an indefinite term or life term or the date on 62935
which the term ends if the prison term is a definite term; 62936

(c) All of the following information that is applicable 62937
regarding the inmate: 62938

(i) If known to the department prior to the conduct of any 62939
hearing for judicial release of the defendant pursuant to section 62940
2929.20 of the Revised Code in relation to any prison term or term 62941
of imprisonment the inmate is serving for any offense or any 62942
hearing for release of the defendant pursuant to section 2967.19 62943
of the Revised Code in relation to any such term, notice of the 62944
fact that the inmate will be having a hearing regarding a possible 62945
grant of judicial release or release, the date of the hearing, and 62946
the right of any person pursuant to division (J) of section 62947

2929.20 or division (H) of section 2967.19 of the Revised Code, 62948
whichever is applicable, to submit to the court a written 62949
statement regarding the possible judicial release or release. The 62950
department also shall post notice of the ~~filing~~ submission to a 62951
sentencing court of any ~~petition recommendation~~ for early release 62952
of the inmate pursuant to section 2967.19 of the Revised Code, as 62953
required by division (E) of that section. 62954

(ii) If the inmate is serving a prison term pursuant to 62955
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 62956
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 62957
Code, prior to the conduct of any hearing pursuant to section 62958
2971.05 of the Revised Code to determine whether to modify the 62959
requirement that the inmate serve the entire prison term in a 62960
state correctional facility in accordance with division (C) of 62961
that section, whether to continue, revise, or revoke any existing 62962
modification of that requirement, or whether to terminate the 62963
prison term in accordance with division (D) of that section, 62964
notice of the fact that the inmate will be having a hearing 62965
regarding those determinations and of the date of the hearing; 62966

(iii) At least three weeks before the adult parole authority 62967
recommends a pardon or commutation of sentence for the inmate or 62968
at least three weeks prior to a hearing before the adult parole 62969
authority regarding a grant of parole to the inmate in relation to 62970
any prison term or term of imprisonment the inmate is serving for 62971
any offense, notice of the fact that the inmate might be under 62972
consideration for a pardon or commutation of sentence or will be 62973
having a hearing regarding a possible grant of parole, of the date 62974
of any hearing regarding a possible grant of parole, and of the 62975
right of any person to submit a written statement regarding the 62976
pending action; 62977

(iv) At least three weeks before the inmate is transferred to 62978
transitional control under section 2967.26 of the Revised Code in 62979

relation to any prison term or term of imprisonment the inmate is 62980
serving for any offense, notice of the pendency of the transfer, 62981
of the date of the possible transfer, and of the right of any 62982
person to submit a statement regarding the possible transfer; 62983

(v) Prompt notice of the inmate's escape from any facility in 62984
which the inmate was incarcerated and of the capture of the inmate 62985
after an escape; 62986

(vi) Notice of the inmate's death while in confinement; 62987

(vii) Prior to the release of the inmate from confinement, 62988
notice of the fact that the inmate will be released, of the date 62989
of the release, and, if applicable, of the standard terms and 62990
conditions of the release; 62991

(viii) Notice of the inmate's judicial release pursuant to 62992
section 2929.20 of the Revised Code or release pursuant to section 62993
2967.19 of the Revised Code. 62994

(2) Information as to where a person can send written 62995
statements of the types referred to in divisions (A)(1)(c)(i), 62996
(iii), and (iv) of this section. 62997

(B)(1) The department shall update the database required 62998
under division (A) of this section every twenty-four hours to 62999
ensure that the information it contains is accurate and current. 63000

(2) The database required under division (A) of this section 63001
is a public record open for inspection under section 149.43 of the 63002
Revised Code. The department shall make the database searchable by 63003
inmate name and by the county and zip code where the offender 63004
intends to reside after release from a state correctional 63005
institution if this information is known to the department. 63006

(3) The database required under division (A) of this section 63007
may contain information regarding inmates who are listed in the 63008
database in addition to the information described in that 63009

division. 63010

(4) No information included on the database required under 63011
division (A) of this section shall identify or enable the 63012
identification of any victim of any offense committed by an 63013
inmate. 63014

(C) The failure of the department to comply with the 63015
requirements of division (A) or (B) of this section does not give 63016
any rights or any grounds for appeal or post-conviction relief to 63017
any inmate. 63018

(D) This section, and the related provisions of sections 63019
2929.20, 2967.03, 2967.12, and 2967.26 of the Revised Code enacted 63020
in the act in which this section was enacted, shall be known as 63021
"Laura's Law." 63022

Sec. 5122.31. (A) All certificates, applications, records, 63023
and reports made for the purpose of this chapter and sections 63024
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 63025
Code, other than court journal entries or court docket entries, 63026
and directly or indirectly identifying a patient or former patient 63027
or person whose hospitalization has been sought under this 63028
chapter, shall be kept confidential and shall not be disclosed by 63029
any person except: 63030

(1) If the person identified, or the person's legal guardian, 63031
if any, or if the person is a minor, the person's parent or legal 63032
guardian, consents, and if the disclosure is in the best interests 63033
of the person, as may be determined by the court for judicial 63034
records and by the chief clinical officer for medical records; 63035

(2) When disclosure is provided for in this chapter or 63036
section 5123.60 of the Revised Code; 63037

(3) That hospitals, boards of alcohol, drug addiction, and 63038
mental health services, and community mental health agencies may 63039

release necessary medical information to insurers and other 63040
third-party payers, including government entities responsible for 63041
processing and authorizing payment, to obtain payment for goods 63042
and services furnished to the patient; 63043

(4) Pursuant to a court order signed by a judge; 63044

(5) That a patient shall be granted access to the patient's 63045
own psychiatric and medical records, unless access specifically is 63046
restricted in a patient's treatment plan for clear treatment 63047
reasons; 63048

(6) That hospitals and other institutions and facilities 63049
within the department of mental health may exchange psychiatric 63050
records and other pertinent information with other hospitals, 63051
institutions, and facilities of the department, and with community 63052
mental health agencies and boards of alcohol, drug addiction, and 63053
mental health services with which the department has a current 63054
agreement for patient care or services. Records and information 63055
that may be released pursuant to this division shall be limited to 63056
medication history, physical health status and history, financial 63057
status, summary of course of treatment in the hospital, summary of 63058
treatment needs, and a discharge summary, if any. 63059

(7) That hospitals within the department, other institutions 63060
and facilities within the department, hospitals licensed by the 63061
department under section 5119.20 of the Revised Code, and 63062
community mental health agencies may exchange psychiatric records 63063
and other pertinent information with payers and other providers of 63064
treatment and health services if the purpose of the exchange is to 63065
facilitate continuity of care for a patient; 63066

(8) That a patient's family member who is involved in the 63067
provision, planning, and monitoring of services to the patient may 63068
receive medication information, a summary of the patient's 63069
diagnosis and prognosis, and a list of the services and personnel 63070

available to assist the patient and the patient's family, if the 63071
patient's treating physician determines that the disclosure would 63072
be in the best interests of the patient. No such disclosure shall 63073
be made unless the patient is notified first and receives the 63074
information and does not object to the disclosure. 63075

(9) That community mental health agencies may exchange 63076
psychiatric records and certain other information with the board 63077
of alcohol, drug addiction, and mental health services and other 63078
agencies in order to provide services to a person involuntarily 63079
committed to a board. Release of records under this division shall 63080
be limited to medication history, physical health status and 63081
history, financial status, summary of course of treatment, summary 63082
of treatment needs, and discharge summary, if any. 63083

(10) That information may be disclosed to the executor or the 63084
administrator of an estate of a deceased patient when the 63085
information is necessary to administer the estate; 63086

(11) That records in the possession of the Ohio historical 63087
society may be released to the closest living relative of a 63088
deceased patient upon request of that relative; 63089

(12) That information may be disclosed to staff members of 63090
the appropriate board or to staff members designated by the 63091
director of mental health for the purpose of evaluating the 63092
quality, effectiveness, and efficiency of services and determining 63093
if the services meet minimum standards. Information obtained 63094
during such evaluations shall not be retained with the name of any 63095
patient. 63096

(13) That records pertaining to the patient's diagnosis, 63097
course of treatment, treatment needs, and prognosis shall be 63098
disclosed and released to the appropriate prosecuting attorney if 63099
the patient was committed pursuant to section 2945.38, 2945.39, 63100
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 63101

attorney designated by the board for proceedings pursuant to 63102
involuntary commitment under this chapter. 63103

(14) That the department of mental health may exchange 63104
psychiatric hospitalization records, other mental health treatment 63105
records, and other pertinent information with the department of 63106
rehabilitation and correction to ensure continuity of care for 63107
inmates who are receiving mental health services in an institution 63108
of the department of rehabilitation and correction and may 63109
exchange psychiatric hospitalization records, other mental health 63110
treatment records, and other pertinent information with boards of 63111
alcohol, drug addiction, and mental health services and community 63112
mental health agencies to ensure continuity of care for inmates or 63113
offenders who are receiving mental health services in an 63114
institution and are scheduled for release within six months. The 63115
~~department shall not disclose those records unless the inmate is~~ 63116
~~notified, receives the information, and does not object to the~~ 63117
~~disclosure.~~ The release of records under this division is limited 63118
to records regarding an inmate's or offender's medication history, 63119
physical health status and history, summary of course of 63120
treatment, summary of treatment needs, and a discharge summary, if 63121
any. 63122

(15) That a community mental health agency that ceases to 63123
operate may transfer to either a community mental health agency 63124
that assumes its caseload or to the board of alcohol, drug 63125
addiction, and mental health services of the service district in 63126
which the patient resided at the time services were most recently 63127
provided any treatment records that have not been transferred 63128
elsewhere at the patient's request. 63129

(B) Before records are disclosed pursuant to divisions 63130
(A)(3), (6), ~~(7)~~, and (9) of this section, the custodian of the 63131
records shall attempt to obtain the patient's consent for the 63132
disclosure. No person shall reveal the contents of a medical 63133

record of a patient except as authorized by law. 63134

(C) The managing officer of a hospital who releases necessary 63135
medical information under division (A)(3) of this section to allow 63136
an insurance carrier or other third party payor to comply with 63137
section 5121.43 of the Revised Code shall neither be subject to 63138
criminal nor civil liability. 63139

Sec. 5123.01. As used in this chapter: 63140

(A) "Chief medical officer" means the licensed physician 63141
appointed by the managing officer of an institution for the 63142
mentally retarded with the approval of the director of 63143
developmental disabilities to provide medical treatment for 63144
residents of the institution. 63145

(B) "Chief program director" means a person with special 63146
training and experience in the diagnosis and management of the 63147
mentally retarded, certified according to division (C) of this 63148
section in at least one of the designated fields, and appointed by 63149
the managing officer of an institution for the mentally retarded 63150
with the approval of the director to provide habilitation and care 63151
for residents of the institution. 63152

(C) "Comprehensive evaluation" means a study, including a 63153
sequence of observations and examinations, of a person leading to 63154
conclusions and recommendations formulated jointly, with 63155
dissenting opinions if any, by a group of persons with special 63156
training and experience in the diagnosis and management of persons 63157
with mental retardation or a developmental disability, which group 63158
shall include individuals who are professionally qualified in the 63159
fields of medicine, psychology, and social work, together with 63160
such other specialists as the individual case may require. 63161

(D) "Education" means the process of formal training and 63162
instruction to facilitate the intellectual and emotional 63163

development of residents. 63164

(E) "Habilitation" means the process by which the staff of 63165
the institution assists the resident in acquiring and maintaining 63166
those life skills that enable the resident to cope more 63167
effectively with the demands of the resident's own person and of 63168
the resident's environment and in raising the level of the 63169
resident's physical, mental, social, and vocational efficiency. 63170
Habilitation includes but is not limited to programs of formal, 63171
structured education and training. 63172

(F) "Health officer" means any public health physician, 63173
public health nurse, or other person authorized or designated by a 63174
city or general health district. 63175

(G) "Home and community-based services" means medicaid-funded 63176
home and community-based services specified in division (B)(1) of 63177
section 5111.87 of the Revised Code provided under the medicaid 63178
waiver components the department of developmental disabilities 63179
administers pursuant to section 5111.871 of the Revised Code. 63180
~~However~~ Except as provided in section 5123.0412 of the Revised 63181
Code, home and community-based services provided under the 63182
medicaid waiver component known as the transitions developmental 63183
disabilities waiver are to be considered to be home and 63184
community-based services for the purposes of this chapter only to 63185
the extent, if any, provided by the contract required by section 63186
5111.871 of the Revised Code regarding the waiver. 63187

(H) "Indigent person" means a person who is unable, without 63188
substantial financial hardship, to provide for the payment of an 63189
attorney and for other necessary expenses of legal representation, 63190
including expert testimony. 63191

(I) "Institution" means a public or private facility, or a 63192
part of a public or private facility, that is licensed by the 63193
appropriate state department and is equipped to provide 63194

residential habilitation, care, and treatment for the mentally retarded. 63195
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(J) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties. 63197
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(K) "Managing officer" means a person who is appointed by the director of developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department. 63203
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(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code. 63207
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(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires. 63209
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(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period. 63213
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(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist: 63217
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(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those 63222
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needs is not available in the community; 63226

(2) The person needs and is susceptible to significant 63227
habilitation in an institution. 63228

(P) "A person who is at least moderately mentally retarded" 63229
means a person who is found, following a comprehensive evaluation, 63230
to be impaired in adaptive behavior to a moderate degree and to be 63231
functioning at the moderate level of intellectual functioning in 63232
accordance with standard measurements as recorded in the most 63233
current revision of the manual of terminology and classification 63234
in mental retardation published by the American association on 63235
mental retardation. 63236

(Q) As used in this division, "substantial functional 63237
limitation," "developmental delay," and "established risk" have 63238
the meanings established pursuant to section 5123.011 of the 63239
Revised Code. 63240

"Developmental disability" means a severe, chronic disability 63241
that is characterized by all of the following: 63242

(1) It is attributable to a mental or physical impairment or 63243
a combination of mental and physical impairments, other than a 63244
mental or physical impairment solely caused by mental illness as 63245
defined in division (A) of section 5122.01 of the Revised Code. 63246

(2) It is manifested before age twenty-two. 63247

(3) It is likely to continue indefinitely. 63248

(4) It results in one of the following: 63249

(a) In the case of a person under three years of age, at 63250
least one developmental delay or an established risk; 63251

(b) In the case of a person at least three years of age but 63252
under six years of age, at least two developmental delays or an 63253
established risk; 63254

(c) In the case of a person six years of age or older, a 63255

substantial functional limitation in at least three of the 63256
following areas of major life activity, as appropriate for the 63257
person's age: self-care, receptive and expressive language, 63258
learning, mobility, self-direction, capacity for independent 63259
living, and, if the person is at least sixteen years of age, 63260
capacity for economic self-sufficiency. 63261

(5) It causes the person to need a combination and sequence 63262
of special, interdisciplinary, or other type of care, treatment, 63263
or provision of services for an extended period of time that is 63264
individually planned and coordinated for the person. 63265

(R) "Developmentally disabled person" means a person with a 63266
developmental disability. 63267

(S) "State institution" means an institution that is 63268
tax-supported and under the jurisdiction of the department. 63269

(T) "Residence" and "legal residence" have the same meaning 63270
as "legal settlement," which is acquired by residing in Ohio for a 63271
period of one year without receiving general assistance prior to 63272
July 17, 1995, under former Chapter 5113. of the Revised Code, 63273
financial assistance under Chapter 5115. of the Revised Code, or 63274
assistance from a private agency that maintains records of 63275
assistance given. A person having a legal settlement in the state 63276
shall be considered as having legal settlement in the assistance 63277
area in which the person resides. No adult person coming into this 63278
state and having a spouse or minor children residing in another 63279
state shall obtain a legal settlement in this state as long as the 63280
spouse or minor children are receiving public assistance, care, or 63281
support at the expense of the other state or its subdivisions. For 63282
the purpose of determining the legal settlement of a person who is 63283
living in a public or private institution or in a home subject to 63284
licensing by the department of job and family services, the 63285
department of mental health, or the department of developmental 63286
disabilities, the residence of the person shall be considered as 63287

though the person were residing in the county in which the person 63288
was living prior to the person's entrance into the institution or 63289
home. Settlement once acquired shall continue until a person has 63290
been continuously absent from Ohio for a period of one year or has 63291
acquired a legal residence in another state. A woman who marries a 63292
man with legal settlement in any county immediately acquires the 63293
settlement of her husband. The legal settlement of a minor is that 63294
of the parents, surviving parent, sole parent, parent who is 63295
designated the residential parent and legal custodian by a court, 63296
other adult having permanent custody awarded by a court, or 63297
guardian of the person of the minor, provided that: 63298

(1) A minor female who marries shall be considered to have 63299
the legal settlement of her husband and, in the case of death of 63300
her husband or divorce, she shall not thereby lose her legal 63301
settlement obtained by the marriage. 63302

(2) A minor male who marries, establishes a home, and who has 63303
resided in this state for one year without receiving general 63304
assistance prior to July 17, 1995, under former Chapter 5113. of 63305
the Revised Code, financial assistance under Chapter 5115. of the 63306
Revised Code, or assistance from a private agency that maintains 63307
records of assistance given shall be considered to have obtained a 63308
legal settlement in this state. 63309

(3) The legal settlement of a child under eighteen years of 63310
age who is in the care or custody of a public or private child 63311
caring agency shall not change if the legal settlement of the 63312
parent changes until after the child has been in the home of the 63313
parent for a period of one year. 63314

No person, adult or minor, may establish a legal settlement 63315
in this state for the purpose of gaining admission to any state 63316
institution. 63317

(U)(1) "Resident" means, subject to division (R)(2) of this 63318

section, a person who is admitted either voluntarily or 63319
involuntarily to an institution or other facility pursuant to 63320
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 63321
Code subsequent to a finding of not guilty by reason of insanity 63322
or incompetence to stand trial or under this chapter who is under 63323
observation or receiving habilitation and care in an institution. 63324

(2) "Resident" does not include a person admitted to an 63325
institution or other facility under section 2945.39, 2945.40, 63326
2945.401, or 2945.402 of the Revised Code to the extent that the 63327
reference in this chapter to resident, or the context in which the 63328
reference occurs, is in conflict with any provision of sections 63329
2945.37 to 2945.402 of the Revised Code. 63330

(V) "Respondent" means the person whose detention, 63331
commitment, or continued commitment is being sought in any 63332
proceeding under this chapter. 63333

(W) "Working day" and "court day" mean Monday, Tuesday, 63334
Wednesday, Thursday, and Friday, except when such day is a legal 63335
holiday. 63336

(X) "Prosecutor" means the prosecuting attorney, village 63337
solicitor, city director of law, or similar chief legal officer 63338
who prosecuted a criminal case in which a person was found not 63339
guilty by reason of insanity, who would have had the authority to 63340
prosecute a criminal case against a person if the person had not 63341
been found incompetent to stand trial, or who prosecuted a case in 63342
which a person was found guilty. 63343

(Y) "Court" means the probate division of the court of common 63344
pleas. 63345

(Z) "Supported living" and "residential services" have the 63346
same meanings as in section 5126.01 of the Revised Code. 63347

Sec. 5123.033. The program fee fund is hereby created in the 63348

state treasury. All fees collected pursuant to sections 5123.161, 63349
5123.164, and 5123.19,~~and 5126.25~~ of the Revised Code shall be 63350
credited to the fund. Money credited to the fund shall be used 63351
solely for the department of developmental disabilities' duties 63352
under sections 5123.16 to ~~5123.169~~ 5123.1610, and 5123.19,~~and~~ 63353
~~5126.25~~ of the Revised Code and to provide continuing education 63354
and professional training to ~~employees of county boards of~~ 63355
~~developmental disabilities for the purpose of section 5126.25 of~~ 63356
~~the Revised Code and other~~ providers of services to individuals 63357
with mental retardation or a developmental disability. If the 63358
money credited to the fund is inadequate to pay all of the 63359
department's costs in performing those duties and providing the 63360
continuing education and professional training, the department may 63361
use other available funds appropriated to the department to pay 63362
the remaining costs of performing those duties and providing the 63363
continuing education and professional training. 63364

Sec. 5123.042. ~~(A) The~~ Except as provided in section 5123.197 63365
of the Revised Code, each person or government entity seeking to 63366
develop new or modify existing residential services shall submit 63367
to the department of developmental disabilities a plan for the 63368
development or modification. The department shall approve a plan 63369
that is submitted in accordance with rules adopted under this 63370
section and meets the uniform standards for plans established in 63371
those rules. 63372

The director of developmental disabilities shall adopt rules 63373
in accordance with Chapter 119. of the Revised Code establishing 63374
the following: 63375

~~(1)~~(A) Procedures for submitting plans under this section; 63376

(B) Uniform standards ~~under which:~~ 63377

~~(a) A person or agency shall submit plans to the county board~~ 63378
~~of developmental disabilities for the development of residential~~ 63379

~~services for individuals with mental retardation or a 63380
developmental disability within the county; 63381~~

~~(b) The county board must review the plans and recommend 63382
providers for the services for the plans. 63383~~

~~(2) The eligibility criteria for selecting persons and 63384
agencies to provide residential services, which shall take into 63385
consideration the recommendations of the county board. 63386~~

~~(B) The county board, in accordance with its comprehensive 63387
service plan, shall review all proposals for the development of 63388
residential services that are submitted to it and shall, if the 63389
proposals are acceptable to the county board, recommend providers 63390
for the development of residential services within the county. The 63391
department shall approve proposals for the development of 63392
residential services within counties based upon the availability 63393
of funds and in accordance with rules adopted under division 63394
(A)(2) of this section. 63395~~

~~No county board shall recommend providers for the development 63396
of residential services if the county board is an applicant to 63397
provide services. In cases of possible conflict of interest, the 63398
director shall appoint a committee that shall, in accordance with 63399
the approved county comprehensive service plan, review and 63400
recommend to the director providers for the services. 63401~~

~~If a county board fails to establish an approved 63402
comprehensive service plan, the director may establish residential 63403
services development goals for the county board based on 63404
documented need as determined by the department. If a county board 63405
fails to develop or implement such a plan in accordance with the 63406
rules adopted under this section, the department may, without the 63407
involvement of the county board, review and select providers for 63408
the development of residential services in the county. 63409~~

Sec. 5123.044. The department of developmental disabilities 63410
shall determine whether county boards of developmental 63411
disabilities ~~are in compliance with~~ violate the rights that 63412
individuals with mental retardation or other developmental 63413
disabilities have under section 5126.046 of the Revised Code to 63414
obtain home and community-based services, nonmedicaid residential 63415
services, or nonmedicaid supported living from qualified and 63416
willing providers. The department shall provide assistance to an 63417
individual with mental retardation or other developmental 63418
disability who requests assistance with the individual's ~~right~~ 63419
~~rights~~ under that section ~~5126.046 of the Revised Code to choose a~~ 63420
~~provider of habilitation, vocational, community employment,~~ 63421
~~residential, or supported living services~~ if the department is 63422
notified of a county board's alleged violation of the individual's 63423
~~right to choose such a provider~~ rights under that section. 63424

Sec. 5123.0412. (A) The department of developmental 63425
disabilities shall charge each county board of developmental 63426
disabilities an annual fee equal to one and one-quarter per cent 63427
of the total value of all medicaid paid claims for home and 63428
community-based services provided during the year to an individual 63429
eligible for services from the county board. However, the 63430
department shall not charge the fee for home and community-based 63431
services provided under the medicaid waiver component known as the 63432
transitions developmental disabilities waiver. No county board 63433
shall pass the cost of a fee charged to the county board under 63434
this section on to another provider of these services. 63435

(B) The fees collected under this section shall be deposited 63436
into the ODDD administration and oversight fund and the ODJFS 63437
administration and oversight fund, both of which are hereby 63438
created in the state treasury. The portion of the fees to be 63439
deposited into the ODDD administration and oversight fund and the 63440

portion of the fees to be deposited into the ODJFS administration 63441
and oversight fund shall be the portion specified in an 63442
interagency agreement entered into under division (C) of this 63443
section. The department of developmental disabilities shall use 63444
the money in the ODDD administration and oversight fund and the 63445
department of job and family services shall use the money in the 63446
ODJFS administration and oversight fund for both of the following 63447
purposes: 63448

(1) Medicaid administrative costs, including administrative 63449
and oversight costs of medicaid case management services and home 63450
and community-based services. The administrative and oversight 63451
costs of medicaid case management services and home and 63452
community-based services shall include costs for staff, systems, 63453
and other resources the departments need and dedicate solely to 63454
the following duties associated with the services: 63455

- (a) Eligibility determinations; 63456
- (b) Training; 63457
- (c) Fiscal management; 63458
- (d) Claims processing; 63459
- (e) Quality assurance oversight; 63460
- (f) Other duties the departments identify. 63461

(2) Providing technical support to county boards' local 63462
administrative authority under section 5126.055 of the Revised 63463
Code for the services. 63464

(C) The departments of developmental disabilities and job and 63465
family services shall enter into an interagency agreement to do 63466
both of the following: 63467

(1) Specify which portion of the fees collected under this 63468
section is to be deposited into the ODDD administration and 63469
oversight fund and which portion is to be deposited into the ODJFS 63470

administration and oversight fund; 63471

(2) Provide for the departments to coordinate the staff whose 63472
costs are paid for with money in the ODDD administration and 63473
oversight fund and the ODJFS administration and oversight fund. 63474

(D) The departments shall submit an annual report to the 63475
director of budget and management certifying how the departments 63476
spent the money in the ODDD administration and oversight fund and 63477
the ODJFS administration and oversight fund for the purposes 63478
specified in division (B) of this section. 63479

Sec. 5123.0414. (A) When the director of developmental 63480
disabilities, under section 119.07 of the Revised Code, sends a 63481
party a notice by registered mail, return receipt requested, that 63482
the director intends to take action against the party authorized 63483
by section ~~5123.0827~~, 5123.166, 5123.168, 5123.19, 5123.45, 63484
5123.51, or 5126.25 of the Revised Code and the notice is returned 63485
to the director with an endorsement indicating that the notice was 63486
refused or unclaimed, the director shall resend the notice by 63487
ordinary mail to the party. 63488

(B) If the original notice was refused, the notice shall be 63489
deemed received as of the date the director resends the notice. 63490

(C) If the original notice was unclaimed, the notice shall be 63491
deemed received as of the date the director resends the notice 63492
unless, not later than thirty days after the date the director 63493
sent the original notice, the resent notice is returned to the 63494
director for failure of delivery. 63495

If the notice concerns taking action under section 5123.51 of 63496
the Revised Code and the resent notice is returned to the director 63497
for failure of delivery not later than thirty days after the date 63498
the director sent the original notice, the director shall cause 63499
the notice to be published in a newspaper of general circulation 63500

in the county of the party's last known residence or business and 63501
shall mail a dated copy of the published notice to the party at 63502
the last known address. The notice shall be deemed received as of 63503
the date of the publication. 63504

If the notice concerns taking action under section ~~5123.082,~~ 63505
5123.166, 5123.168, 5123.19, 5123.45, or 5126.25 of the Revised 63506
Code and the resent notice is returned to the director for failure 63507
of delivery not later than thirty days after the date the director 63508
sent the original notice, the director shall resend the notice to 63509
the party a second time. The notice shall be deemed received as of 63510
the date the director resends the notice the second time. 63511

Sec. 5123.0415. ~~As used in this section, "license" means a 63512
license, certificate, or evidence of registration. 63513~~

Each person and each government entity that applies for or 63514
holds a valid license, certification, or registration issued under 63515
section ~~5123.082,~~ 5123.161, 5123.19, 5123.45, or 5126.25, ~~or~~ 63516
~~5126.252~~ of the Revised Code shall notify the director of 63517
developmental disabilities of any change in the ~~person~~ person's or 63518
government entity's address. 63519

Sec. 5123.081. (A) As used in this section: 63520

(1)(a) "Applicant" means a any of the following: 63521

(i) A person who is under final consideration for appointment 63522
to or employment with the department of developmental 63523
disabilities, including, but not limited to, a or a county board 63524
of developmental disabilities; 63525

(ii) A person who is being transferred to the department ~~and 63526
an~~ or a county board; 63527

(iii) An employee who is being recalled to or reemployed by 63528
the department or a county board after a layoff; 63529

(iv) A person under final consideration for a direct services position with a provider or subcontractor. 63530
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(b) Neither of the following is an applicant: 63532

(i) A person who is employed by a responsible entity in a position for which a criminal records check is required by this section and either is being considered for a different position with the responsible entity or is returning after a leave of absence or seasonal break in employment, unless the responsible entity has reason to believe that the person has committed a disqualifying offense; 63533
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(ii) A person who is to provide 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 is to receive the respite care selects the person. 63540
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(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 63545
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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. 63547
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(4) "Disqualifying offense" means any of the following: 63551

(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, 63552
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2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 63561
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 63562
2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 63563
2919.22, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 63564
2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 63565
2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 63566
2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 63567
2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 63568
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code; 63569

(b) One or more violations of section 2905.04 of the Revised 63570
Code as it existed prior to July 1, 1996; 63571

(c) One or more violations of section 2919.23 of the Revised 63572
Code that would have been a violation of section 2905.04 of the 63573
Revised Code as it existed prior to July 1, 1996, had the 63574
violation occurred prior to that date; 63575

(d) One violation of section 2925.11 of the Revised Code that 63576
is not a minor drug possession offense; 63577

(e) Two or more violations of section 2925.11 of the Revised 63578
Code, regardless of whether any of the violations are a minor drug 63579
possession offense; 63580

(f) One or more violations of felonious sexual penetration 63581
under former section 2907.12 of the Revised Code; 63582

(g) One or more violations of section 2923.01, 2923.02, or 63583
2923.03 of the Revised Code when the underlying offense that is 63584
the object of the conspiracy, attempt, or complicity is one of the 63585
offenses listed in divisions (A)(4)(a) to (f) of this section; 63586

(h) One or more felonies contained in the Revised Code that 63587
are not listed in divisions (A)(4)(a) to (g) of this section, if 63588
the felony bears a direct and substantial relationship to the 63589
duties and responsibilities of the position being filled; 63590

(i) One or more offenses contained in the Revised Code 63591
constituting a misdemeanor of the first degree on the first 63592
offense and a felony on a subsequent offense, if the offense bears 63593
a direct and substantial relationship to the position being filled 63594
and the nature of the services being provided by the responsible 63595
entity; 63596

(j) One or more violations of an existing or former municipal 63597
ordinance or law of this state, any other state, or the United 63598
States, if the offense is substantially equivalent to any of the 63599
offenses listed or described in divisions (A)(4)(a) to (i) of this 63600
section. 63601

(5)(a) "Employee" means either of the following: 63602

(i) A person appointed to or employed by the department of 63603
developmental disabilities or a county board of developmental 63604
disabilities; 63605

(ii) A person employed in a direct services position by a 63606
provider or subcontractor. 63607

(b) "Employee" does not mean a person who provides only 63608
respite care under a family support services program established 63609
under section 5126.11 of the Revised Code if a family member of 63610
the individual with mental retardation or a developmental 63611
disability who receives the respite care selected the person. 63612

(6) "Minor drug possession offense" has the same meaning as 63613
in section 2925.01 of the Revised Code. 63614

(7) "Provider" means a person that provides specialized 63615
services to individuals with mental retardation or a developmental 63616
disability and employs one or more persons in direct services 63617
positions. 63618

(8) "Responsible entity" means the following: 63619

(a) The department of developmental disabilities in the case 63620

of either of the following: 63621

(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; 63622
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(ii) A person who is an employee because the person is appointed to or employed by the department. 63626
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(b) A county board of developmental disabilities in the case of either of the following: 63628
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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; 63630
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(ii) A person who is an employee because the person is appointed to or employed by the county board. 63634
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(c) A provider in the case of either of the following: 63636

(i) A person who is an applicant because the person is under final consideration for a direct services position with the provider; 63637
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(ii) A person who is an employee because the person is employed in a direct services position by the provider. 63640
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(d) A subcontractor in the case of either of the following: 63642

(i) A person who is an applicant because the person is under final consideration for a direct services position with the subcontractor; 63643
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(ii) A person who is an employee because the person is employed in a direct services position by the subcontractor. 63646
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(9) "Specialized services" means any program or service designed and operated to serve primarily individuals with mental 63648
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retardation or a developmental disability, including a program or 63650
service provided by an entity licensed or certified by the 63651
department of developmental disabilities. If there is a question 63652
as to whether a provider or subcontractor is providing specialized 63653
services, the provider or subcontractor may request that the 63654
director of developmental disabilities make a determination. The 63655
director's determination is final. 63656

(10) "Subcontractor" means a person to which both of the 63657
following apply: 63658

(a) The person has either of the following: 63659

(i) A subcontract with a provider to provide specialized 63660
services included in the contract between the provider and the 63661
department of developmental disabilities or a county board of 63662
developmental disabilities; 63663

(ii) A subcontract with another subcontractor to provide 63664
specialized services included in a subcontract between the other 63665
subcontractor and a provider or other subcontractor. 63666

(b) The person employs one or more persons in direct services 63667
positions. 63668

(B) ~~The director of developmental disabilities~~ A responsible 63669
entity shall not employ an applicant or continue to employ an 63670
employee if either of the following applies: 63671

(1) The applicant or employee fails to comply with division 63672
(D)(3) of this section. 63673

(2) Except as provided in rules adopted under this section, 63674
the applicant or employee is found by a criminal records check 63675
required by this section to have been convicted of, pleaded guilty 63676
to, or been found eligible for intervention in lieu of conviction 63677
for a disqualifying offense. 63678

(C) Before employing an applicant in a position for which a 63679

criminal records check is required by this section, a responsible 63680
entity shall require the applicant to submit a statement with the 63681
applicant's signature attesting that the applicant has not been 63682
convicted of, pleaded guilty to, or been found eligible for 63683
intervention in lieu of conviction for a disqualifying offense. 63684
The responsible entity also shall require the applicant to sign an 63685
agreement under which the applicant agrees to notify the 63686
responsible entity within fourteen calendar days if, while 63687
employed by the responsible entity, the applicant is formally 63688
charged with, is convicted of, pleads guilty to, or is found 63689
eligible for intervention in lieu of conviction for a 63690
disqualifying offense. The agreement shall provide that the 63691
applicant's failure to provide the notification may result in 63692
termination of the applicant's employment. 63693

(D)(1) As a condition of employing any applicant in a 63694
position for which a criminal records check is required by this 63695
section, a responsible entity shall request the superintendent of 63696
the bureau of criminal identification and investigation to conduct 63697
a criminal records check with respect to each applicant, except 63698
that the director is not required to request a criminal records 63699
check for an employee of the department who is being considered 63700
for a different position or is returning after a leave of absence 63701
or seasonal break in employment, as long as the director has no 63702
reason to believe that the employee has committed any of the 63703
offenses listed or described in division (E) of this section. 63704

If the of the applicant. If rules adopted under this section 63705
require an employee to undergo a criminal records check, a 63706
responsible entity shall request the superintendent to conduct a 63707
criminal records check of the employee at times specified in the 63708
rules as a condition of the responsible entity's continuing to 63709
employ the employee in a position for which a criminal records 63710
check is required by this section. If an applicant or employee 63711

does not present proof that the applicant or employee has been a 63712
resident of this state for the five-year period immediately prior 63713
to the date upon which the criminal records check is requested, 63714
the ~~director~~ responsible entity shall request that the 63715
superintendent ~~of the bureau~~ obtain information from the federal 63716
bureau of investigation as a part of the criminal records check 63717
~~for the applicant~~. If the applicant or employee presents proof 63718
that the applicant or employee has been a resident of this state 63719
for that five-year period, the ~~director~~ responsible entity may 63720
request that the superintendent ~~of the bureau~~ include information 63721
from the federal bureau of investigation in the criminal records 63722
check. For purposes of this division, an applicant or employee may 63723
provide proof of residency in this state by presenting, with a 63724
notarized statement asserting that the applicant or employee has 63725
been a resident of this state for that five-year period, a valid 63726
driver's license, notification of registration as an elector, a 63727
copy of an officially filed federal or state tax form identifying 63728
the applicant's or employee's permanent residence, or any other 63729
document the ~~director~~ responsible entity considers acceptable. 63730

~~(C) The director~~ (2) A responsible entity shall provide do 63731
all of the following: 63732

(a) Provide to each applicant and employee for whom a 63733
criminal records check is required by this section a copy of the 63734
form prescribed pursuant to division (C)(1) of section 109.572 of 63735
the Revised Code, ~~provide to each applicant and~~ a standard 63736
impression sheet to obtain fingerprint impressions prescribed 63737
pursuant to division (C)(2) of section 109.572 of the Revised 63738
Code, ~~obtain;~~ 63739

(b) Obtain the completed form and standard impression sheet 63740
from ~~each the~~ applicant, ~~and forward~~ or employee; 63741

(c) Forward the completed form and standard impression sheet 63742
to the superintendent ~~of the bureau of criminal identification and~~ 63743

~~investigation~~ at the time the criminal records check is requested. 63744

(3) Any applicant or employee who receives pursuant to this 63745
division a copy of the form prescribed pursuant to division (C)(1) 63746
of section 109.572 of the Revised Code and a copy of ~~an~~ the 63747
standard impression sheet prescribed pursuant to division (C)(2) 63748
of that section and who is requested to complete the form and 63749
provide a set of the applicant's or employee's fingerprint 63750
impressions shall complete the form or provide all the information 63751
necessary to complete the form and shall provide the ~~material~~ 63752
standard impression sheet with the impressions of the applicant's 63753
or employee's fingerprints. ~~If an applicant, upon request, fails~~ 63754
~~to provide the information necessary to complete the form or fails~~ 63755
~~to provide impressions of the applicant's fingerprints, the~~ 63756
~~director shall not employ the applicant.~~ 63757

~~(D) The director~~ (4) A responsible entity shall pay to the 63758
bureau of criminal identification and investigation the fee 63759
prescribed pursuant to division (C)(3) of section 109.572 of the 63760
Revised Code for each criminal records check requested and 63761
conducted pursuant to this section. 63762

(E) A responsible entity may request any other state or 63763
federal agency to supply the ~~director~~ responsible entity with a 63764
written report regarding the criminal record of ~~each~~ an applicant 63765
or employee. ~~With regard to an applicant who becomes a department~~ 63766
~~employee, if the~~ If an employee holds an occupational or 63767
professional license or other credentials, the ~~director~~ 63768
responsible entity may request that the state or federal agency 63769
that regulates the employee's occupation or profession supply the 63770
~~director~~ responsible entity with a written report of any 63771
information pertaining to the employee's criminal record that the 63772
agency obtains in the course of conducting an investigation or in 63773
the process of renewing the employee's license or other 63774
credentials. The responsible entity may consider the reports when 63775

determining whether to employ the applicant or to continue to 63776
employ the employee. 63777

~~(E) Except as provided in division (K)(2) of this section and~~ 63778
~~in rules adopted by the director in accordance with division (M)~~ 63779
~~of this section, the director shall not employ a person to fill a~~ 63780
~~position with the department who has been convicted of or pleaded~~ 63781
~~guilty to any of the following:~~ 63782

~~(1) A violation of section 2903.01, 2903.02, 2903.03,~~ 63783
~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,~~ 63784
~~2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04,~~ 63785
~~2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22,~~ 63786
~~2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323,~~ 63787
~~2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24,~~ 63788
~~2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04,~~ 63789
~~2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of~~ 63790
~~section 2905.04 of the Revised Code as it existed prior to July 1,~~ 63791
~~1996, a violation of section 2919.23 of the Revised Code that~~ 63792
~~would have been a violation of section 2905.04 of the Revised Code~~ 63793
~~as it existed prior to July 1, 1996, had the violation occurred~~ 63794
~~prior to that date, a violation of section 2925.11 of the Revised~~ 63795
~~Code that is not a minor drug possession offense, or felonious~~ 63796
~~sexual penetration in violation of former section 2907.12 of the~~ 63797
~~Revised Code;~~ 63798

~~(2) A felony contained in the Revised Code that is not listed~~ 63799
~~in this division, if the felony bears a direct and substantial~~ 63800
~~relationship to the duties and responsibilities of the position~~ 63801
~~being filled;~~ 63802

~~(3) Any offense contained in the Revised Code constituting a~~ 63803
~~misdemeanor of the first degree on the first offense and a felony~~ 63804
~~on a subsequent offense, if the offense bears a direct and~~ 63805
~~substantial relationship to the position being filled and the~~ 63806
~~nature of the services being provided by the department;~~ 63807

~~(4) A violation 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 division (E)(1), (2), or (3) of this section.~~

~~(F) Prior to employing an applicant, the director shall require the applicant to submit a statement with the applicant's signature attesting that the applicant has not been convicted of or pleaded guilty to any of the offenses listed or described in division (E) of this section. The director also shall require the applicant to sign an agreement under which the applicant agrees to notify the director within fourteen calendar days if, while employed with the department, the applicant is ever formally charged with, convicted of, or pleads guilty to any of the offenses listed or described in division (E) of this section. The agreement shall inform the applicant that failure to report formal charges, a conviction, or a guilty plea may result in being dismissed from employment. As a condition of employing an applicant in a position for which a criminal records check is required by this section and that involves transporting individuals with mental retardation or developmental disabilities or operating a responsible entity's vehicles for any purpose, the responsible entity shall obtain the applicant's driving record from the bureau of motor vehicles. If rules adopted under this section require a responsible entity to obtain an employee's driving record, the responsible entity shall obtain the employee's driving record from the bureau at times specified in the rules as a condition of continuing to employ the employee. The responsible entity may consider the applicant's or employee's driving record when determining whether to employ the applicant or to continue to employ the employee.~~

~~(G) The director shall pay to the bureau of criminal~~

~~identification and investigation the fee prescribed pursuant to~~ 63840
~~division (C)(3) of section 109.572 of the Revised Code for each~~ 63841
~~criminal records check requested and conducted pursuant to this~~ 63842
~~section.~~ A responsible entity may employ an applicant 63843
conditionally pending receipt of a report regarding the applicant 63844
requested under this section. The responsible entity shall 63845
terminate the applicant's employment if it is determined from a 63846
report that the applicant failed to inform the responsible entity 63847
that the applicant had been convicted of, pleaded guilty to, or 63848
been found eligible for intervention in lieu of conviction for a 63849
disqualifying offense. 63850

(H) A responsible entity may charge an applicant a fee for 63851
costs the responsible entity incurs in obtaining a report 63852
regarding the applicant under this section if the responsible 63853
entity notifies the applicant of the amount of the fee at the time 63854
of the applicant's initial application for employment and that, 63855
unless the fee is paid, the responsible entity will not consider 63856
the applicant for employment. The fee shall not exceed the amount 63857
of the fee, if any, the responsible entity pays for the report. 63858

(I)(1) Any report obtained pursuant to this section is not a 63859
public record for purposes of section 149.43 of the Revised Code 63860
and shall not be made available to any person, other than the 63861
following: 63862

(a) The applicant or employee who is the subject of the 63863
~~records check or criminal records check report~~ or the applicant's 63864
~~or employee's representative, the department;~~ 63865

(b) The responsible entity that requested the report or its 63866
~~representative, a county board of developmental disabilities, and~~ 63867
~~any;~~ 63868

(c) The department if a county board, provider, or 63869
subcontractor is the responsible entity that requested the report 63870

and the department requests the responsible entity to provide a copy of the report to the department; 63871
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(d) A county board if a provider or subcontractor is the responsible entity that requested the report and the county board requests the responsible entity to provide a copy of the report to the county board; 63873
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(e) Any court, hearing officer, or other necessary individual involved in a case dealing with the any of the following: 63877
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(i) The denial of employment to the applicant or the employee; 63879
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(ii) The denial, suspension, or revocation of a certificate or evidence of registration under section 5123.082 5123.166 or 5123.45 of the Revised Code; 63881
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(iii) A civil or criminal action regarding the medicaid program or a program the department administers. 63884
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(2) An individual applicant or employee for whom the director responsible entity has obtained reports under this section may submit a written request to the director responsible entity to have copies of the reports sent to any state agency, entity of local government, or private entity. The individual applicant or employee shall specify in the request the agencies or entities to which the copies are to be sent. On receiving the request, the director responsible entity shall send copies of the reports to the agencies or entities specified. 63886
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The director (3) A responsible entity may request that a state agency, entity of local government, or private entity send copies to the director responsible entity of any report regarding a records check or criminal records check that the agency or entity possesses, if the director responsible entity obtains the written consent of the individual who is the subject of the report. 63895
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~~(I) The director shall request the registrar of motor vehicles to supply the director with a certified abstract regarding the record of convictions for violations of motor vehicle laws of each applicant who will be required by the applicant's employment to transport individuals with mental retardation or a developmental disability or to operate the department's vehicles for any other purpose. For each abstract provided under this section, the director shall pay the amount specified in section 4509.05 of the Revised Code.~~ 63902
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~~(J) The director (4) A responsible entity shall provide each applicant and employee with a copy of any report or abstract obtained about the applicant or employee under this section.~~ 63911
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~~(K)(1) The director shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints 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 employment as a precondition to employment in a position.~~ 63914
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~~(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.~~ 63922
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~~(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 (C) and (I) of this section. If a fee is charged under this division, the director shall notify the applicant of the~~ 63928
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~~amount of the fee at the time of the applicant's initial 63934
application for employment and that, unless the fee is paid, the 63935
director will not consider the applicant for employment. 63936~~

~~(M)(J) The director of developmental disabilities shall adopt 63937
rules in accordance with Chapter 119. of the Revised Code to 63938
implement this section, including rules specifying. 63939~~

(1) The rules may do the following: 63940

(a) Require employees to undergo criminal records checks 63941
under this section; 63942

(b) Require responsible entities to obtain the driving 63943
records of employees under this section; 63944

(c) If the rules require employees to undergo criminal 63945
records checks, require responsible entities to obtain the driving 63946
records of employees, or both, exempt one or more classes of 63947
employees from the requirements. 63948

(2) The rules shall do both of the following: 63949

(a) If the rules require employees to undergo criminal 63950
records checks, require responsible entities to obtain the driving 63951
records of employees, or both, specify the times at which the 63952
criminal records checks are to be conducted and the driving 63953
records are to be obtained; 63954

(b) Specify circumstances under which ~~the director a~~ 63955
~~responsible entity~~ may employ ~~a person who has an applicant or~~ 63956
~~employee who is found by a criminal records check required by this~~ 63957
~~section to have~~ been convicted of ~~or~~, pleaded guilty to ~~an~~, or 63958
~~been found eligible for intervention in lieu of conviction for a~~ 63959
~~disqualifying offense listed or described in division (E) of this~~ 63960
~~section but who~~ meets standards in regard to rehabilitation set by 63961
the director. 63962

Sec. 5123.16. (A) As used in sections 5123.16 to ~~5123.169~~ 63963

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| <u>5123.1610 of the Revised Code:</u> | 63964 |
| <u>(1) "Applicant" means any of the following:</u> | 63965 |
| <u>(a) The chief executive officer of a business that applies</u> | 63966 |
| <u>under section 5123.161 of the Revised Code for a certificate to</u> | 63967 |
| <u>provide supported living;</u> | 63968 |
| <u>(b) The chief executive officer of a business that seeks</u> | 63969 |
| <u>renewal of the business's supported living certificate under</u> | 63970 |
| <u>section 5123.164 of the Revised Code;</u> | 63971 |
| <u>(c) An individual who applies under section 5123.161 of the</u> | 63972 |
| <u>Revised Code for a certificate to provide supported living as an</u> | 63973 |
| <u>independent provider;</u> | 63974 |
| <u>(d) An independent provider who seeks renewal of the</u> | 63975 |
| <u>independent provider's supported living certificate under section</u> | 63976 |
| <u>5123.164 of the Revised Code.</u> | 63977 |
| <u>(2)(a) "Business" means either of the following:</u> | 63978 |
| <u>(i) An association, corporation, nonprofit organization,</u> | 63979 |
| <u>partnership, trust, or other group of persons;</u> | 63980 |
| <u>(ii) An individual who employs, directly or through contract,</u> | 63981 |
| <u>one or more other individuals to provide supported living.</u> | 63982 |
| <u>(b) "Business" does not mean an independent provider.</u> | 63983 |
| <u>(3) "Criminal records check" has the same meaning as in</u> | 63984 |
| <u>section 109.572 of the Revised Code.</u> | 63985 |
| <u>(4) "Disqualifying offense" means any of the following:</u> | 63986 |
| <u>(a) One or more violations of section 959.13, 959.131,</u> | 63987 |
| <u>2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12,</u> | 63988 |
| <u>2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34,</u> | 63989 |
| <u>2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02,</u> | 63990 |
| <u>2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09,</u> | 63991 |
| <u>2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32,</u> | 63992 |

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| <u>2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04,</u> | 63993 |
| <u>2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12,</u> | 63994 |
| <u>2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21,</u> | 63995 |
| <u>2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44,</u> | 63996 |
| <u>2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51,</u> | 63997 |
| <u>2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123,</u> | 63998 |
| <u>2919.22, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21,</u> | 63999 |
| <u>2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12,</u> | 64000 |
| <u>2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32,</u> | 64001 |
| <u>2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06,</u> | 64002 |
| <u>2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36,</u> | 64003 |
| <u>2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;</u> | 64004 |
| <u>(b) One or more violations of section 2905.04 of the Revised</u> | 64005 |
| <u>Code as it existed prior to July 1, 1996;</u> | 64006 |
| <u>(c) One or more violations of section 2919.23 of the Revised</u> | 64007 |
| <u>Code that would have been a violation of section 2905.04 of the</u> | 64008 |
| <u>Revised Code as it existed prior to July 1, 1996, had the</u> | 64009 |
| <u>violation occurred prior to that date;</u> | 64010 |
| <u>(d) One violation of section 2925.11 of the Revised Code that</u> | 64011 |
| <u>is not a minor drug possession offense;</u> | 64012 |
| <u>(e) Two or more violations of section 2925.11 of the Revised</u> | 64013 |
| <u>Code, regardless of whether any of the violations are a minor drug</u> | 64014 |
| <u>possession offense;</u> | 64015 |
| <u>(f) One or more violations of felonious sexual penetration</u> | 64016 |
| <u>under former section 2907.12 of the Revised Code;</u> | 64017 |
| <u>(g) One or more violations of section 2923.01, 2923.02, or</u> | 64018 |
| <u>2923.03 of the Revised Code when the underlying offense that is</u> | 64019 |
| <u>the object of the conspiracy, attempt, or complicity is one of the</u> | 64020 |
| <u>offenses listed in divisions (A)(4)(a) to (f) of this section;</u> | 64021 |
| <u>(h) One or more felonies contained in the Revised Code that</u> | 64022 |
| <u>are not listed in divisions (A)(4)(a) to (g) of this section, if</u> | 64023 |

the felony bears a direct and substantial relationship to the 64024
duties and responsibilities of the position being filled; 64025

(i) One or more offenses contained in the Revised Code 64026
constituting a misdemeanor of the first degree on the first 64027
offense and a felony on a subsequent offense, if the offense bears 64028
a direct and substantial relationship to the position being filled 64029
and the nature of the services being provided by the responsible 64030
entity; 64031

(j) One or more violations of an existing or former municipal 64032
ordinance or law of this state, any other state, or the United 64033
States, if the offense is substantially equivalent to any of the 64034
offenses listed or described in divisions (A)(4)(a) to (i) of this 64035
section. 64036

(5) "Independent provider" means a provider who provides 64037
supported living on a self-employed basis and does not employ, 64038
directly or through contract, another individual to provide the 64039
supported living. 64040

(6) "Provider" means a person or government entity certified 64041
by the director of developmental disabilities to provide supported 64042
living. 64043

~~(2)~~(7) "Minor drug possession offense" has the same meaning 64044
as in section 2925.01 of the Revised Code. 64045

(8) "Related party" means any of the following: 64046

(a) In the case of a provider who is an individual, any of 64047
the following: 64048

(i) The spouse of the provider; 64049

(ii) A parent or stepparent of the provider or provider's 64050
spouse; 64051

(iii) A child of the provider or provider's spouse; 64052

(iv) A sibling, half sibling, or stepsibling of the provider 64053

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| or provider's spouse; | 64054 |
| (v) A grandparent of the provider or provider's spouse; | 64055 |
| (vi) A grandchild of the provider or provider's spouse; | 64056 |
| (vii) An employee or employer of the provider or provider's spouse. | 64057 64058 |
| (b) In the case of a provider that is a person other than an individual, any of the following: | 64059 64060 |
| (i) An employee of the person; | 64061 |
| (ii) An officer of the provider, including the chief executive officer, president, vice-president, secretary, and treasurer; | 64062 64063 64064 |
| (iii) A member of the provider's board of directors or trustees; | 64065 64066 |
| (iv) A person owning a financial interest of five per cent or more in the provider; | 64067 64068 |
| (v) A corporation that has a subsidiary relationship with the provider; | 64069 64070 |
| (vi) A person or government entity that has control over the provider's day-to-day operation; | 64071 64072 |
| (vii) A person over which the provider has control of the day-to-day operation. | 64073 64074 |
| (c) In the case of a provider that is a government entity, any of the following: | 64075 64076 |
| (i) An employee of the provider; | 64077 |
| (ii) An officer of the provider; | 64078 |
| (iii) A member of the provider's governing board; | 64079 |
| (iv) A government entity that has control over the provider's day-to-day operation; | 64080 64081 |

(v) A person or government entity over which the provider has control of the day-to-day operation. 64082
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(B) No person or government entity may provide supported living without a valid supported living certificate issued by the director of developmental disabilities. 64084
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(C) A county board of developmental disabilities may provide supported living only to the extent permitted by rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code. 64087
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Sec. 5123.161. A person or government entity that seeks to provide supported living shall apply to the director of developmental disabilities for a supported living certificate. 64090
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Except as provided in ~~section~~ sections 5123.166 and 5123.169 of the Revised Code, the director shall issue to the applicant person or government entity a supported living certificate if the ~~applicant~~ person or government entity follows the application process established in rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code, meets the applicable certification standards established in those rules, and pays the certification fee established in those rules. 64093
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Sec. 5123.162. The director of developmental disabilities may conduct surveys of persons and government entities that seek a supported living certificate to determine whether the persons and government entities meet the certification standards. The director may also conduct surveys of providers to determine whether the providers continue to meet the certification standards. The director shall conduct the surveys in accordance with rules adopted under section ~~5123.169~~ 5123.1610 of the Revised Code. 64101
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The records of surveys conducted under this section are public records for the purpose of section 149.43 of the Revised Code and shall be made available on the request of any person or 64109
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government entity. 64112

Sec. 5123.163. A supported living certificate is valid for a 64113
period of time established in rules adopted under section ~~5123.169~~ 64114
5123.1610 of the Revised Code, unless any of the following occur 64115
before the end of that period of time: 64116

(A) The director of developmental disabilities issues an 64117
order requiring that action be taken against the certificate 64118
holder under section 5123.166 of the Revised Code. 64119

(B) The director issues an order terminating the certificate 64120
under section 5123.168 of the Revised Code. 64121

(C) The certificate holder voluntarily surrenders the 64122
certificate to the director. 64123

Sec. 5123.164. Except as provided in ~~section~~ sections 64124
5123.166 and 5123.169 of the Revised Code, the director of 64125
developmental disabilities shall renew a supported living 64126
certificate if the certificate holder follows the renewal process 64127
established in rules adopted under section ~~5123.169~~ 5123.1610 of 64128
the Revised Code, continues to meet the applicable certification 64129
standards established in those rules, and pays the renewal fee 64130
established in those rules. 64131

Sec. 5123.166. (A) If good cause exists as specified in 64132
division (B) of this section and determined in accordance with 64133
procedures established in rules adopted under section ~~5123.169~~ 64134
5123.1610 of the Revised Code, the director of developmental 64135
disabilities may issue an adjudication order requiring that one of 64136
the following actions be taken against a person or government 64137
entity seeking or holding a supported living certificate: 64138

(1) Refusal to issue or renew a supported living certificate; 64139

(2) Revocation of a supported living certificate; 64140

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| (3) Suspension of a supported living certificate holder's authority to do either or both of the following: | 64141 64142 |
| (a) Continue to provide supported living to one or more individuals from one or more counties who receive supported living from the certificate holder at the time the director takes the action; | 64143 64144 64145 64146 |
| (b) Begin to provide supported living to one or more individuals from one or more counties who do not receive supported living from the certificate holder at the time the director takes the action. | 64147 64148 64149 64150 |
| (B) The following constitute good cause for taking action under division (A) of this section against a person or government entity seeking or holding a supported living certificate: | 64151 64152 64153 |
| (1) The person or government entity's failure to meet or continue to meet the applicable certification standards established in rules adopted under section 5123.169 <u>5123.1610</u> of the Revised Code; | 64154 64155 64156 64157 |
| (2) The person or government entity violates section 5123.165 of the Revised Code; | 64158 64159 |
| (3) The person or government entity's failure to satisfy the requirements of section <u>5123.081</u> or 5123.52, 5126.28 , or 5126.281 of the Revised Code; | 64160 64161 64162 |
| (4) Misfeasance; | 64163 |
| (5) Malfeasance; | 64164 |
| (6) Nonfeasance; | 64165 |
| (7) Confirmed abuse or neglect; | 64166 |
| (8) Financial irresponsibility; | 64167 |
| (9) Other conduct the director determines is or would be injurious to individuals who receive or would receive supported | 64168 64169 |

living from the person or government entity. 64170

(C) Except as provided in division (D) of this section, the 64171
director shall issue an adjudication order under division (A) of 64172
this section in accordance with Chapter 119. of the Revised Code. 64173

(D)(1) The director may issue an order requiring that action 64174
specified in division (A)(3) of this section be taken before a 64175
provider is provided notice and an opportunity for a hearing if 64176
all of the following are the case: 64177

(a) The director determines such action is warranted by the 64178
provider's failure to continue to meet the applicable 64179
certification standards; 64180

(b) The director determines that the failure either 64181
represents a pattern of serious noncompliance or creates a 64182
substantial risk to the health or safety of an individual who 64183
receives or would receive supported living from the provider; 64184

(c) If the order will suspend the provider's authority to 64185
continue to provide supported living to an individual who receives 64186
supported living from the provider at the time the director issues 64187
the order, both of the following are the case: 64188

(i) The director makes the individual, or the individual's 64189
guardian, aware of the director's determination under division 64190
(D)(1)(b) of this section and the individual or guardian does not 64191
select another provider. 64192

(ii) A county board of developmental disabilities has filed a 64193
complaint with a probate court under section ~~5123.33~~ 5126.33 of 64194
the Revised Code that includes facts describing the nature of 64195
abuse or neglect that the individual has suffered due to the 64196
provider's actions that are the basis for the director making the 64197
determination under division (D)(1)(b) of this section and the 64198
probate court does not issue an order authorizing the county board 64199
to arrange services for the individual pursuant to an 64200

individualized service plan developed for the individual under 64201
section ~~5123.31~~ 5126.31 of the Revised Code. 64202

(2) If the director issues an order under division (D)(1) of 64203
this section, sections 119.091 to 119.13 of the Revised Code and 64204
all of the following apply: 64205

(a) The director shall send the provider notice of the order 64206
by registered mail, return receipt requested, not later than 64207
twenty-four hours after issuing the order and shall include in the 64208
notice the reasons for the order, the citation to the law or rule 64209
directly involved, and a statement that the provider will be 64210
afforded a hearing if the provider requests it within ten days of 64211
the time of receiving the notice. 64212

(b) If the provider requests a hearing within the required 64213
time and the provider has provided the director the provider's 64214
current address, the director shall immediately set, and notify 64215
the provider of, the date, time, and place for the hearing. 64216

(c) The date of the hearing shall be not later than thirty 64217
days after the director receives the provider's timely request for 64218
the hearing. 64219

(d) The hearing shall be conducted in accordance with section 64220
119.09 of the Revised Code, except for all of the following: 64221

(i) The hearing shall continue uninterrupted until its close, 64222
except for weekends, legal holidays, and other interruptions the 64223
provider and director agree to. 64224

(ii) If the director appoints a referee or examiner to 64225
conduct the hearing, the referee or examiner, not later than ten 64226
days after the date the referee or examiner receives a transcript 64227
of the testimony and evidence presented at the hearing or, if the 64228
referee or examiner does not receive the transcript or no such 64229
transcript is made, the date that the referee or examiner closes 64230
the record of the hearing, shall submit to the director a written 64231

report setting forth the referee or examiner's findings of fact 64232
and conclusions of law and a recommendation of the action the 64233
director should take. 64234

(iii) The provider may, not later than five days after the 64235
date the director, in accordance with section 119.09 of the 64236
Revised Code, sends the provider or the provider's attorney or 64237
other representative of record a copy of the referee or examiner's 64238
report and recommendation, file with the director written 64239
objections to the report and recommendation. 64240

(iv) The director shall approve, modify, or disapprove the 64241
referee or examiner's report and recommendation not earlier than 64242
six days, and not later than fifteen days, after the date the 64243
director, in accordance with section 119.09 of the Revised Code, 64244
sends a copy of the report and recommendation to the provider or 64245
the provider's attorney or other representative of record. 64246

(3) The director may lift an order issued under division 64247
(D)(1) of this section even though a hearing regarding the order 64248
is occurring or pending if the director determines that the 64249
provider has taken action eliminating the good cause for issuing 64250
the order. The hearing shall proceed unless the provider withdraws 64251
the request for the hearing in a written letter to the director. 64252

(4) The director shall lift an order issued under division 64253
(D)(1) of this section if both of the following are the case: 64254

(a) The provider provides the director a plan of compliance 64255
the director determines is acceptable. 64256

(b) The director determines that the provider has implemented 64257
the plan of compliance correctly. 64258

Sec. 5123.169. (A) The director of developmental disabilities 64259
shall not issue a supported living certificate to an applicant or 64260
renew an applicant's supported living certificate if either of the 64261

following applies: 64262

(1) The applicant fails to comply with division (C)(2) of this section; 64263
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(2) Except as provided in rules adopted under section 5123.1610 of the Revised Code, the applicant 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. 64265
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(B) Before issuing a supported living certificate to an applicant or renewing an applicant's supported living certificate, the director 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 director also shall require the applicant to sign an agreement under which the applicant agrees to notify the director within fourteen calendar days if, while holding a supported living certificate, 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 action being taken by the director against the applicant under section 5123.166 of the Revised Code. 64270
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(C)(1) As a condition of receiving a supported living certificate or having a supported living certificate renewed, an applicant shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant. If an applicant does not present proof to the director that the applicant has been a resident of this state for the five-year period immediately prior to the date that the applicant applies for issuance or renewal of the 64285
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supported living certificate, the director shall require the 64293
applicant to request that the superintendent obtain information 64294
from the federal bureau of investigation as a part of the criminal 64295
records check. If the applicant presents proof to the director 64296
that the applicant has been a resident of this state for that 64297
five-year period, the director may require the applicant to 64298
request that the superintendent include information from the 64299
federal bureau of investigation in the criminal records check. For 64300
purposes of this division, an applicant may provide proof of 64301
residency in this state by presenting, with a notarized statement 64302
asserting that the applicant has been a resident of this state for 64303
that five-year period, a valid driver's license, notification of 64304
registration as an elector, a copy of an officially filed federal 64305
or state tax form identifying the applicant's permanent residence, 64306
or any other document the director considers acceptable. 64307

(2) Each applicant shall do all of the following: 64308

(a) Obtain a copy of the form prescribed pursuant to division 64309
(C)(1) of section 109.572 of the Revised Code and a standard 64310
impression sheet prescribed pursuant to division (C)(2) of section 64311
109.572 of the Revised Code; 64312

(b) Complete the form and provide the applicant's fingerprint 64313
impressions on the standard impression sheet; 64314

(c) Forward the completed form and standard impression sheet 64315
to the superintendent at the time the criminal records check is 64316
requested; 64317

(d) Instruct the superintendent to submit the completed 64318
report of the criminal records check directly to the director; 64319

(e) Pay to the bureau of criminal identification and 64320
investigation the fee prescribed pursuant to division (C)(3) of 64321
section 109.572 of the Revised Code for each criminal records 64322
check of the applicant requested and conducted pursuant to this 64323

section. 64324

(D) The director may request any other state or federal agency to supply the director with a written report regarding the criminal record of an applicant. The director may consider the reports when determining whether to issue a supported living certificate to the applicant or to renew an applicant's supported living certificate. 64325
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(E) An applicant who seeks to be an independent provider or is an independent provider seeking renewal of the applicant's supported living certificate shall obtain the applicant's driving record from the bureau of motor vehicles and provide a copy of the record to the director if the supported living that the applicant will provide involves transporting individuals with mental retardation or developmental disabilities. The director may consider the applicant's driving record when determining whether to issue the applicant a supported living certificate or to renew the applicant's supported living certificate. 64331
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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: 64341
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(a) The applicant who is the subject of the report or the applicant's representative; 64345
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(b) The director or the director's representative; 64347

(c) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following: 64348
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(i) The denial of a supported living certificate or refusal to renew a supported living certificate; 64350
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(ii) The denial, suspension, or revocation of a certificate under section 5123.45 of the Revised Code; 64352
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(iii) A civil or criminal action regarding the medicaid program. 64354
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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. 64356
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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. 64363
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(4) The director shall provide each applicant with a copy of any report obtained about the applicant under this section. 64368
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Sec. ~~5123.169~~ 5123.1610. The director of developmental disabilities shall adopt rules under Chapter 119. of the Revised Code establishing all of the following: 64370
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(A) The extent to which a county board of developmental disabilities may provide supported living; 64373
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(B) The application process for obtaining a supported living certificate under section 5123.161 of the Revised Code; 64375
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(C) The certification standards a person or government entity must meet to obtain a supported living certificate to provide supported living; 64377
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(D) The certification fee for a supported living certificate, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code; 64380
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(E) The period of time a supported living certificate is 64383

valid; 64384

(F) The process for renewing a supported living certificate 64385
under section 5123.164 of the Revised Code; 64386

(G) The renewal fee for a supported living certificate, which 64387
shall be deposited into the program fee fund created under section 64388
5123.033 of the Revised Code; 64389

(H) Procedures for conducting surveys under section 5123.162 64390
of the Revised Code; 64391

(I) Procedures for determining whether there is good cause to 64392
take action under section 5123.166 of the Revised Code against a 64393
person or government entity seeking or holding a supported living 64394
certificate; 64395

(J) Circumstances under which the director may issue a 64396
supported living certificate to an applicant or renew an 64397
applicant's supported living certificate if the applicant is found 64398
by a criminal records check required by section 5123.169 of the 64399
Revised Code to have been convicted of, pleaded guilty to, or been 64400
found eligible for intervention in lieu of conviction for a 64401
disqualifying offense but meets standards in regard to 64402
rehabilitation set by the director. 64403

Sec. 5123.171. As used in this section, "respite care" means 64404
appropriate, short-term, temporary care provided to a mentally 64405
retarded or developmentally disabled person to sustain the family 64406
structure or to meet planned or emergency needs of the family. 64407

The department of developmental disabilities shall provide 64408
respite care services to persons with mental retardation or a 64409
developmental disability for the purpose of promoting 64410
self-sufficiency and normalization, preventing or reducing 64411
inappropriate institutional care, and furthering the unity of the 64412
family by enabling the family to meet the special needs of a 64413

mentally retarded or developmentally disabled person. 64414

In order to be eligible for respite care services under this 64415
section, the mentally retarded or developmentally disabled person 64416
must be in need of habilitation services as defined in section 64417
5126.01 of the Revised Code. 64418

Respite care may be provided in a residential facility 64419
licensed under section 5123.19 of the Revised Code ~~or~~ (including a 64420
residential facility certified as an intermediate care facility 64421
for the mentally retarded under Title XIX of the "Social Security 64422
Act," 49 79 Stat. 620 344 (1935 1965), 42 U.S.C. 301 1396, et 64423
seq., as amended, ~~or certified as~~ and a respite care home 64424
certified under section 5126.05 of the Revised Code. 64425

The department shall develop a system for locating vacant 64426
beds that are available for respite care and for making 64427
information on vacant beds available to users of respite care 64428
services. Facilities certified as intermediate care facilities for 64429
the mentally retarded shall report vacant beds to the department 64430
but shall not be required to accept respite care clients. 64431

The director of developmental disabilities shall adopt, and 64432
may amend or rescind, rules in accordance with Chapter 119. of the 64433
Revised Code for both of the following: 64434

(A) Certification by county boards of developmental 64435
disabilities of respite care homes; 64436

(B) Provision of respite care services authorized by this 64437
section. Rules adopted under this division shall establish all of 64438
the following: 64439

(1) A formula for distributing funds appropriated for respite 64440
care services; 64441

(2) Standards for supervision, training and quality control 64442
in the provision of respite care services; 64443

(3) Eligibility criteria for emergency respite care services. 64444

Sec. 5123.19. (A) As used in ~~this section and in sections~~ 64445
~~5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.19 to~~ 64446
5123.20 of the Revised Code: 64447

~~(1)(a) "Residential facility" means a home or facility in~~ 64448
~~which a mentally retarded or developmentally disabled person~~ 64449
~~resides, except the home of a relative or legal guardian in which~~ 64450
~~a mentally retarded or developmentally disabled person resides, a~~ 64451
~~respite care home certified under section 5126.05 of the Revised~~ 64452
~~Code, a county home or district home operated pursuant to Chapter~~ 64453
~~5155. of the Revised Code, or a dwelling in which the only~~ 64454
~~mentally retarded or developmentally disabled residents are in an~~ 64455
~~independent living arrangement or are being provided supported~~ 64456
~~living.~~ 64457

~~(b) "Intermediate care facility for the mentally retarded"~~ 64458
~~means a residential facility that is considered an intermediate~~ 64459
~~care facility for the mentally retarded for the purposes of~~ 64460
~~Chapter 5111. of the Revised Code.~~ 64461

~~(2) "Political subdivision" means a municipal corporation,~~ 64462
~~county, or township.~~ 64463

~~(3) "Independent living arrangement" means an arrangement in~~ 64464
~~which a mentally retarded or developmentally disabled person~~ 64465
~~resides in an individualized setting chosen by the person or the~~ 64466
~~person's guardian, which is not dedicated principally to the~~ 64467
~~provision of residential services for mentally retarded or~~ 64468
~~developmentally disabled persons, and for which no financial~~ 64469
~~support is received for rendering such service from any~~ 64470
~~governmental agency by a provider of residential services.~~ 64471

~~(4)(2) "Intermediate care facility for the mentally retarded"~~ 64472
~~has the same meaning as in section 1905(d) of the "Social Security~~ 64473

Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended. 64474

(3) "Licensee" means the person or government agency that has 64475
applied for a license to operate a residential facility and to 64476
which the license was issued under this section. 64477

(4) "Political subdivision" means a municipal corporation, 64478
county, or township. 64479

(5) "Related party" has the same meaning as in section 64480
5123.16 of the Revised Code except that "provider" as used in the 64481
definition of "related party" means a person or government entity 64482
that held or applied for a license to operate a residential 64483
facility, rather than a person or government entity certified to 64484
provide supported living. 64485

(6)(a) Except as provided in division (A)(6)(b) of this 64486
section, "residential facility" means a home or facility, 64487
including a facility certified as an intermediate care facility 64488
for the mentally retarded, in which an individual with mental 64489
retardation or a developmental disability resides. 64490

(b) "Residential facility" does not mean any of the 64491
following: 64492

(i) The home of a relative or legal guardian in which an 64493
individual with mental retardation or a developmental disability 64494
resides; 64495

(ii) A respite care home certified under section 5126.05 of 64496
the Revised Code; 64497

(iii) A county home or district home operated pursuant to 64498
Chapter 5155. of the Revised Code; 64499

(iv) A dwelling in which the only residents with mental 64500
retardation or developmental disabilities are in independent 64501
living arrangements or are being provided supported living. 64502

(B) Every person or government agency desiring to operate a 64503

residential facility shall apply for licensure of the facility to 64504
the director of developmental disabilities unless the residential 64505
facility is subject to section 3721.02, ~~5119.73~~, 5103.03, ~~or~~ 64506
~~5119.20, or division (A)(9)(b) of section 5119.22 of the Revised~~ 64507
~~Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing~~ 64508
~~home that is certified as an intermediate care facility for the~~ 64509
~~mentally retarded under Title XIX of the "Social Security Act," 79~~ 64510
~~Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for~~ 64511
~~licensure of the portion of the home that is certified as an~~ 64512
~~intermediate care facility for the mentally retarded.~~ 64513

(C) Subject to section 5123.196 of the Revised Code, the 64514
director of developmental disabilities shall license the operation 64515
of residential facilities. An initial license shall be issued for 64516
a period that does not exceed one year, unless the director denies 64517
the license under division (D) of this section. A license shall be 64518
renewed for a period that does not exceed three years, unless the 64519
director refuses to renew the license under division (D) of this 64520
section. The director, when issuing or renewing a license, shall 64521
specify the period for which the license is being issued or 64522
renewed. A license remains valid for the length of the licensing 64523
period specified by the director, unless the license is 64524
terminated, revoked, or voluntarily surrendered. 64525

(D) If it is determined that an applicant or licensee is not 64526
in compliance with a provision of this chapter that applies to 64527
residential facilities or the rules adopted under such a 64528
provision, the director may deny issuance of a license, refuse to 64529
renew a license, terminate a license, revoke a license, issue an 64530
order for the suspension of admissions to a facility, issue an 64531
order for the placement of a monitor at a facility, issue an order 64532
for the immediate removal of residents, or take any other action 64533
the director considers necessary consistent with the director's 64534
authority under this chapter regarding residential facilities. In 64535

the director's selection and administration of the sanction to be 64536
imposed, all of the following apply: 64537

(1) The director may deny, refuse to renew, or revoke a 64538
license, if the director determines that the applicant or licensee 64539
has demonstrated a pattern of serious noncompliance or that a 64540
violation creates a substantial risk to the health and safety of 64541
residents of a residential facility. 64542

(2) The director may terminate a license if more than twelve 64543
consecutive months have elapsed since the residential facility was 64544
last occupied by a resident or a notice required by division (K) 64545
of this section is not given. 64546

(3) The director may issue an order for the suspension of 64547
admissions to a facility for any violation that may result in 64548
sanctions under division (D)(1) of this section and for any other 64549
violation specified in rules adopted under division (H)(2) of this 64550
section. If the suspension of admissions is imposed for a 64551
violation that may result in sanctions under division (D)(1) of 64552
this section, the director may impose the suspension before 64553
providing an opportunity for an adjudication under Chapter 119. of 64554
the Revised Code. The director shall lift an order for the 64555
suspension of admissions when the director determines that the 64556
violation that formed the basis for the order has been corrected. 64557

(4) The director may order the placement of a monitor at a 64558
residential facility for any violation specified in rules adopted 64559
under division (H)(2) of this section. The director shall lift the 64560
order when the director determines that the violation that formed 64561
the basis for the order has been corrected. 64562

(5) If the director determines that two or more residential 64563
facilities owned or operated by the same person or government 64564
entity are not being operated in compliance with a provision of 64565
this chapter that applies to residential facilities or the rules 64566

adopted under such a provision, and the director's findings are 64567
based on the same or a substantially similar action, practice, 64568
circumstance, or incident that creates a substantial risk to the 64569
health and safety of the residents, the director shall conduct a 64570
survey as soon as practicable at each residential facility owned 64571
or operated by that person or government entity. The director may 64572
take any action authorized by this section with respect to any 64573
facility found to be operating in violation of a provision of this 64574
chapter that applies to residential facilities or the rules 64575
adopted under such a provision. 64576

(6) When the director initiates license revocation 64577
proceedings, no opportunity for submitting a plan of correction 64578
shall be given. The director shall notify the licensee by letter 64579
of the initiation of the proceedings. The letter shall list the 64580
deficiencies of the residential facility and inform the licensee 64581
that no plan of correction will be accepted. The director shall 64582
also send a copy of the letter to the county board of 64583
developmental disabilities. The county board shall send a copy of 64584
the letter to each of the following: 64585

(a) Each resident who receives services from the licensee; 64586

(b) The guardian of each resident who receives services from 64587
the licensee if the resident has a guardian; 64588

(c) The parent or guardian of each resident who receives 64589
services from the licensee if the resident is a minor. 64590

(7) Pursuant to rules which shall be adopted in accordance 64591
with Chapter 119. of the Revised Code, the director may order the 64592
immediate removal of residents from a residential facility 64593
whenever conditions at the facility present an immediate danger of 64594
physical or psychological harm to the residents. 64595

(8) In determining whether a residential facility is being 64596
operated in compliance with a provision of this chapter that 64597

applies to residential facilities or the rules adopted under such 64598
a provision, or whether conditions at a residential facility 64599
present an immediate danger of physical or psychological harm to 64600
the residents, the director may rely on information obtained by a 64601
county board of developmental disabilities or other governmental 64602
agencies. 64603

(9) In proceedings initiated to deny, refuse to renew, or 64604
revoke licenses, the director may deny, refuse to renew, or revoke 64605
a license regardless of whether some or all of the deficiencies 64606
that prompted the proceedings have been corrected at the time of 64607
the hearing. 64608

(E) The director shall establish a program under which public 64609
notification may be made when the director has initiated license 64610
revocation proceedings or has issued an order for the suspension 64611
of admissions, placement of a monitor, or removal of residents. 64612
The director shall adopt rules in accordance with Chapter 119. of 64613
the Revised Code to implement this division. The rules shall 64614
establish the procedures by which the public notification will be 64615
made and specify the circumstances for which the notification must 64616
be made. The rules shall require that public notification be made 64617
if the director has taken action against the facility in the 64618
eighteen-month period immediately preceding the director's latest 64619
action against the facility and the latest action is being taken 64620
for the same or a substantially similar violation of a provision 64621
of this chapter that applies to residential facilities or the 64622
rules adopted under such a provision. The rules shall specify a 64623
method for removing or amending the public notification if the 64624
director's action is found to have been unjustified or the 64625
violation at the residential facility has been corrected. 64626

(F)(1) Except as provided in division (F)(2) of this section, 64627
appeals from proceedings initiated to impose a sanction under 64628
division (D) of this section shall be conducted in accordance with 64629

Chapter 119. of the Revised Code. 64630

(2) Appeals from proceedings initiated to order the 64631
suspension of admissions to a facility shall be conducted in 64632
accordance with Chapter 119. of the Revised Code, unless the order 64633
was issued before providing an opportunity for an adjudication, in 64634
which case all of the following apply: 64635

(a) The licensee may request a hearing not later than ten 64636
days after receiving the notice specified in section 119.07 of the 64637
Revised Code. 64638

(b) If a timely request for a hearing that includes the 64639
licensee's current address is made, the hearing shall commence not 64640
later than thirty days after the department receives the request. 64641

(c) After commencing, the hearing shall continue 64642
uninterrupted, except for Saturdays, Sundays, and legal holidays, 64643
unless other interruptions are agreed to by the licensee and the 64644
director. 64645

(d) If the hearing is conducted by a hearing examiner, the 64646
hearing examiner shall file a report and recommendations not later 64647
than ten days after the last of the following: 64648

(i) The close of the hearing; 64649

(ii) If a transcript of the proceedings is ordered, the 64650
hearing examiner receives the transcript; 64651

(iii) If post-hearing briefs are timely filed, the hearing 64652
examiner receives the briefs. 64653

(e) A copy of the written report and recommendation of the 64654
hearing examiner shall be sent, by certified mail, to the licensee 64655
and the licensee's attorney, if applicable, not later than five 64656
days after the report is filed. 64657

(f) Not later than five days after the hearing examiner files 64658
the report and recommendations, the licensee may file objections 64659

to the report and recommendations. 64660

(g) Not later than fifteen days after the hearing examiner 64661
files the report and recommendations, the director shall issue an 64662
order approving, modifying, or disapproving the report and 64663
recommendations. 64664

(h) Notwithstanding the pendency of the hearing, the director 64665
shall lift the order for the suspension of admissions when the 64666
director determines that the violation that formed the basis for 64667
the order has been corrected. 64668

(G) Neither a person or government agency whose application 64669
for a license to operate a residential facility is denied nor a 64670
related party of the person or government agency may apply for a 64671
license to operate a residential facility before the date that is 64672
one year after the date of the denial. Neither a licensee whose 64673
residential facility license is revoked nor a related party of the 64674
licensee may apply for a residential facility license before the 64675
date that is five years after the date of the revocation. 64676

(H) In accordance with Chapter 119. of the Revised Code, the 64677
director shall adopt and may amend and rescind rules for licensing 64678
and regulating the operation of residential facilities, ~~including~~ 64679
~~intermediate care facilities for the mentally retarded~~. The rules 64680
for residential facilities that are intermediate care facilities 64681
for the mentally retarded may differ from those for other 64682
residential facilities. The rules shall establish and specify the 64683
following: 64684

(1) Procedures and criteria for issuing and renewing 64685
licenses, including procedures and criteria for determining the 64686
length of the licensing period that the director must specify for 64687
each license when it is issued or renewed; 64688

(2) Procedures and criteria for denying, refusing to renew, 64689
terminating, and revoking licenses and for ordering the suspension 64690

of admissions to a facility, placement of a monitor at a facility, 64691
and the immediate removal of residents from a facility; 64692

(3) Fees for issuing and renewing licenses, which shall be 64693
deposited into the program fee fund created under section 5123.033 64694
of the Revised Code; 64695

(4) Procedures for surveying residential facilities; 64696

(5) Requirements for the training of residential facility 64697
personnel; 64698

(6) Classifications for the various types of residential 64699
facilities; 64700

(7) Certification procedures for licensees and management 64701
contractors that the director determines are necessary to ensure 64702
that they have the skills and qualifications to properly operate 64703
or manage residential facilities; 64704

(8) The maximum number of persons who may be served in a 64705
particular type of residential facility; 64706

(9) Uniform procedures for admission of persons to and 64707
transfers and discharges of persons from residential facilities; 64708

(10) Other standards for the operation of residential 64709
facilities and the services provided at residential facilities; 64710

(11) Procedures for waiving any provision of any rule adopted 64711
under this section. 64712

(I) Before issuing a license, the director of the department 64713
or the director's designee shall conduct a survey of the 64714
residential facility for which application is made. The director 64715
or the director's designee shall conduct a survey of each licensed 64716
residential facility at least once during the period the license 64717
is valid and may conduct additional inspections as needed. A 64718
survey includes but is not limited to an on-site examination and 64719
evaluation of the residential facility, its personnel, and the 64720

services provided there. 64721

In conducting surveys, the director or the director's 64722
designee shall be given access to the residential facility; all 64723
records, accounts, and any other documents related to the 64724
operation of the facility; the licensee; the residents of the 64725
facility; and all persons acting on behalf of, under the control 64726
of, or in connection with the licensee. The licensee and all 64727
persons on behalf of, under the control of, or in connection with 64728
the licensee shall cooperate with the director or the director's 64729
designee in conducting the survey. 64730

Following each survey, unless the director initiates a 64731
license revocation proceeding, the director or the director's 64732
designee shall provide the licensee with a report listing any 64733
deficiencies, specifying a timetable within which the licensee 64734
shall submit a plan of correction describing how the deficiencies 64735
will be corrected, and, when appropriate, specifying a timetable 64736
within which the licensee must correct the deficiencies. After a 64737
plan of correction is submitted, the director or the director's 64738
designee shall approve or disapprove the plan. A copy of the 64739
report and any approved plan of correction shall be provided to 64740
any person who requests it. 64741

The director shall initiate disciplinary action against any 64742
department employee who notifies or causes the notification to any 64743
unauthorized person of an unannounced survey of a residential 64744
facility by an authorized representative of the department. 64745

(J) In addition to any other information which may be 64746
required of applicants for a license pursuant to this section, the 64747
director shall require each applicant to provide a copy of an 64748
approved plan for a proposed residential facility pursuant to 64749
section 5123.042 of the Revised Code. This division does not apply 64750
to renewal of a license or to an applicant for an initial or 64751
modified license who meets the requirements of section ~~5123.193~~ or 64752

5123.197 of the Revised Code. 64753

(K) A licensee shall notify the owner of the building in 64754
which the licensee's residential facility is located of any 64755
significant change in the identity of the licensee or management 64756
contractor before the effective date of the change if the licensee 64757
is not the owner of the building. 64758

Pursuant to rules which shall be adopted in accordance with 64759
Chapter 119. of the Revised Code, the director may require 64760
notification to the department of any significant change in the 64761
ownership of a residential facility or in the identity of the 64762
licensee or management contractor. If the director determines that 64763
a significant change of ownership is proposed, the director shall 64764
consider the proposed change to be an application for development 64765
by a new operator pursuant to section 5123.042 of the Revised Code 64766
and shall advise the applicant within sixty days of the 64767
notification that the current license shall continue in effect or 64768
a new license will be required pursuant to this section. If the 64769
director requires a new license, the director shall permit the 64770
facility to continue to operate under the current license until 64771
the new license is issued, unless the current license is revoked, 64772
refused to be renewed, or terminated in accordance with Chapter 64773
119. of the Revised Code. 64774

(L) A county board of developmental disabilities, the legal 64775
rights service, and any interested person may file complaints 64776
alleging violations of statute or department rule relating to 64777
residential facilities with the department. All complaints shall 64778
be in writing and shall state the facts constituting the basis of 64779
the allegation. The department shall not reveal the source of any 64780
complaint unless the complainant agrees in writing to waive the 64781
right to confidentiality or until so ordered by a court of 64782
competent jurisdiction. 64783

The department shall adopt rules in accordance with Chapter 64784

119. of the Revised Code establishing procedures for the receipt, 64785
referral, investigation, and disposition of complaints filed with 64786
the department under this division. 64787

(M) The department shall establish procedures for the 64788
notification of interested parties of the transfer or interim care 64789
of residents from residential facilities that are closing or are 64790
losing their license. 64791

(N) Before issuing a license under this section to a 64792
residential facility that will accommodate at any time more than 64793
one mentally retarded or developmentally disabled individual, the 64794
director shall, by first class mail, notify the following: 64795

(1) If the facility will be located in a municipal 64796
corporation, the clerk of the legislative authority of the 64797
municipal corporation; 64798

(2) If the facility will be located in unincorporated 64799
territory, the clerk of the appropriate board of county 64800
commissioners and the fiscal officer of the appropriate board of 64801
township trustees. 64802

The director shall not issue the license for ten days after 64803
mailing the notice, excluding Saturdays, Sundays, and legal 64804
holidays, in order to give the notified local officials time in 64805
which to comment on the proposed issuance. 64806

Any legislative authority of a municipal corporation, board 64807
of county commissioners, or board of township trustees that 64808
receives notice under this division of the proposed issuance of a 64809
license for a residential facility may comment on it in writing to 64810
the director within ten days after the director mailed the notice, 64811
excluding Saturdays, Sundays, and legal holidays. If the director 64812
receives written comments from any notified officials within the 64813
specified time, the director shall make written findings 64814
concerning the comments and the director's decision on the 64815

issuance of the license. If the director does not receive written 64816
comments from any notified local officials within the specified 64817
time, the director shall continue the process for issuance of the 64818
license. 64819

(O) Any person may operate a licensed residential facility 64820
that provides room and board, personal care, habilitation 64821
services, and supervision in a family setting for at least six but 64822
not more than eight persons with mental retardation or a 64823
developmental disability as a permitted use in any residential 64824
district or zone, including any single-family residential district 64825
or zone, of any political subdivision. These residential 64826
facilities may be required to comply with area, height, yard, and 64827
architectural compatibility requirements that are uniformly 64828
imposed upon all single-family residences within the district or 64829
zone. 64830

(P) Any person may operate a licensed residential facility 64831
that provides room and board, personal care, habilitation 64832
services, and supervision in a family setting for at least nine 64833
but not more than sixteen persons with mental retardation or a 64834
developmental disability as a permitted use in any multiple-family 64835
residential district or zone of any political subdivision, except 64836
that a political subdivision that has enacted a zoning ordinance 64837
or resolution establishing planned unit development districts may 64838
exclude these residential facilities from those districts, and a 64839
political subdivision that has enacted a zoning ordinance or 64840
resolution may regulate these residential facilities in 64841
multiple-family residential districts or zones as a conditionally 64842
permitted use or special exception, in either case, under 64843
reasonable and specific standards and conditions set out in the 64844
zoning ordinance or resolution to: 64845

(1) Require the architectural design and site layout of the 64846
residential facility and the location, nature, and height of any 64847

walls, screens, and fences to be compatible with adjoining land 64848
uses and the residential character of the neighborhood; 64849

(2) Require compliance with yard, parking, and sign 64850
regulation; 64851

(3) Limit excessive concentration of these residential 64852
facilities. 64853

(Q) This section does not prohibit a political subdivision 64854
from applying to residential facilities nondiscriminatory 64855
regulations requiring compliance with health, fire, and safety 64856
regulations and building standards and regulations. 64857

(R) Divisions (O) and (P) of this section are not applicable 64858
to municipal corporations that had in effect on June 15, 1977, an 64859
ordinance specifically permitting in residential zones licensed 64860
residential facilities by means of permitted uses, conditional 64861
uses, or special exception, so long as such ordinance remains in 64862
effect without any substantive modification. 64863

(S)(1) The director may issue an interim license to operate a 64864
residential facility to an applicant for a license under this 64865
section if either of the following is the case: 64866

(a) The director determines that an emergency exists 64867
requiring immediate placement of persons in a residential 64868
facility, that insufficient licensed beds are available, and that 64869
the residential facility is likely to receive a permanent license 64870
under this section within thirty days after issuance of the 64871
interim license. 64872

(b) The director determines that the issuance of an interim 64873
license is necessary to meet a temporary need for a residential 64874
facility. 64875

(2) To be eligible to receive an interim license, an 64876
applicant must meet the same criteria that must be met to receive 64877

a permanent license under this section, except for any differing 64878
procedures and time frames that may apply to issuance of a 64879
permanent license. 64880

(3) An interim license shall be valid for thirty days and may 64881
be renewed by the director for a period not to exceed one hundred 64882
fifty days. 64883

(4) The director shall adopt rules in accordance with Chapter 64884
119. of the Revised Code as the director considers necessary to 64885
administer the issuance of interim licenses. 64886

(T) Notwithstanding rules adopted pursuant to this section 64887
establishing the maximum number of persons who may be served in a 64888
particular type of residential facility, a residential facility 64889
shall be permitted to serve the same number of persons being 64890
served by the facility on the effective date of the rules or the 64891
number of persons for which the facility is authorized pursuant to 64892
a current application for a certificate of need with a letter of 64893
support from the department of developmental disabilities and 64894
which is in the review process prior to April 4, 1986. 64895

(U) The director or the director's designee may enter at any 64896
time, for purposes of investigation, any home, facility, or other 64897
structure that has been reported to the director or that the 64898
director has reasonable cause to believe is being operated as a 64899
residential facility without a license issued under this section. 64900

The director may petition the court of common pleas of the 64901
county in which an unlicensed residential facility is located for 64902
an order enjoining the person or governmental agency operating the 64903
facility from continuing to operate without a license. The court 64904
may grant the injunction on a showing that the person or 64905
governmental agency named in the petition is operating a 64906
residential facility without a license. The court may grant the 64907
injunction, regardless of whether the residential facility meets 64908

the requirements for receiving a license under this section. 64909

Sec. 5123.192. (A) A person or government agency operating, 64910
on the effective date of this section, an intermediate care 64911
facility for the mentally retarded pursuant to a nursing home 64912
license issued under Chapter 3721. of the Revised Code shall do 64913
both of the following as a condition of continuing to operate the 64914
facility on and after July 1, 2013: 64915

(1) Not later than February 1, 2013, apply to the director of 64916
developmental disabilities for a residential facility license 64917
under section 5123.19 of the Revised Code for the facility; 64918

(2) Not later than July 1, 2013, obtain the residential 64919
facility license for the facility. 64920

(B) The nursing home license of an intermediate care facility 64921
for the mentally retarded shall cease to be valid at the earliest 64922
of the following: 64923

(1) The date that the facility's nursing home license is 64924
revoked or voided under section 3721.07 of the Revised Code; 64925

(2) The date that a residential facility license is obtained 64926
for the facility under section 5123.19 of the Revised Code; 64927

(3) July 1, 2013. 64928

(C) No bed that is part of an intermediate care facility for 64929
the mentally retarded that is licensed as a nursing home on the 64930
effective date of this section may be used as part of a nursing 64931
home on and after the earlier of the following: 64932

(1) The date that a residential facility license is obtained 64933
for the facility under section 5123.19 of the Revised Code; 64934

(2) July 1, 2013. 64935

Sec. 5123.31. (A) The department of developmental 64936

disabilities shall keep ~~in its office, accessible only to its~~ 64937
~~employees, except by the consent of the department or the order of~~ 64938
~~the judge of a court of record,~~ a record showing the name, 64939
residence, sex, age, nativity, occupation, condition, and date of 64940
entrance or commitment of every resident in the institutions 64941
governed by it, the date, cause, and terms of discharge and the 64942
condition of such person at the time of leaving, and also a record 64943
of all transfers from one institution to another, and, if such 64944
person dies while in the care or custody of the department, the 64945
date and cause of death. These and such other facts as the 64946
department requires shall be furnished by the managing officer of 64947
each institution within ten days after the commitment, entrance, 64948
death, or discharge of a resident. 64949

Except as provided in division (C) of this section, the 64950
department shall maintain the records described in this division 64951
in its office. The department shall make the records accessible 64952
only to its employees, except by the consent of the department or 64953
the order of the judge of a court of record. 64954

(B) In case of an accident or injury or peculiar death of a 64955
an institution resident the managing officer shall make a special 64956
report to the department within twenty-four hours thereafter, 64957
giving the circumstances as fully as possible. 64958

(C) After a period of time determined by the department, the 64959
records described in division (A) of this section may be deposited 64960
with the Ohio historical society. Neither the records nor the 64961
information contained in them shall be disclosed by the historical 64962
society, except as provided in section 5123.89 of the Revised 64963
Code. 64964

Sec. 5123.38. (A) Except as provided in division (B) ~~and (C)~~ 64965
of this section, if an individual receiving supported living or 64966
home and community-based services funded by a county board of 64967

developmental disabilities is committed to a state-operated 64968
intermediate care facility for the mentally retarded pursuant to 64969
sections 5123.71 to 5123.76 of the Revised Code, ~~the department of~~ 64970
~~developmental disabilities shall use the funds otherwise allocated~~ 64971
~~to the county board as~~ is responsible for the nonfederal share of 64972
medicaid expenditures for the individual's care in the 64973
state-operated facility. The department of developmental 64974
disabilities shall collect the amount of the nonfederal share from 64975
the county board by either withholding that amount from funds the 64976
department has otherwise allocated to the county board or 64977
submitting an invoice for payment of that amount to the county 64978
board. 64979

(B) Division (A) of this section does not apply ~~if the~~ under 64980
any of the following circumstances: 64981

(1) The county board, not later than ninety days after the 64982
date of the commitment of a person receiving supported services 64983
living, commences funding of supported living for an individual 64984
who resides in a state-operated intermediate care facility for the 64985
mentally retarded on the date of the commitment or another 64986
eligible individual designated by the department. 64987

~~(C) Division (A) of this section does not apply if the~~ (2) 64988
The county board, not later than ninety days after the date of the 64989
commitment of a person receiving home and community-based 64990
services, commences funding of home and community-based services 64991
for an individual who resides in a state-operated intermediate 64992
care facility for the mentally retarded on the date of the 64993
commitment or another eligible individual designated by the 64994
department. 64995

(3) The director of developmental disabilities, after 64996
determining that circumstances warrant granting a waiver in an 64997
individual's case, grants the county board a waiver that exempts 64998
the county board from responsibility for the nonfederal share for 64999

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| <u>that case.</u> | 65000 |
| Sec. 5123.41. As used in this section and sections 5123.42 to 5123.47 of the Revised Code: | 65001 65002 |
| (A) "Adult services" has the same meaning as in section 5126.01 of the Revised Code. | 65003 65004 |
| (B) "Certified supported living provider" means a person or government entity certified under section 5123.161 of the Revised Code. | 65005 65006 65007 |
| (C) "Drug" has the same meaning as in section 4729.01 of the Revised Code. | 65008 65009 |
| (D) "Family support services" has the same meaning as in section 5126.01 of the Revised Code. | 65010 65011 |
| (E) "Health-related activities" means the following: | 65012 |
| (1) Taking vital signs; | 65013 |
| (2) Application of clean dressings that do not require health assessment; | 65014 65015 |
| (3) Basic measurement of bodily intake and output; | 65016 |
| (4) Oral suctioning; | 65017 |
| (5) Use of glucometers; | 65018 |
| (6) External urinary catheter care; | 65019 |
| (7) Emptying and replacing colostomy bags; | 65020 |
| (8) Collection of specimens by noninvasive means. | 65021 |
| (F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code. | 65022 65023 65024 |
| (G) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals | 65025 65026 |

with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows: 65027
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(1) Through direct employment with the department of developmental disabilities or a county board of developmental disabilities; 65029
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(2) Through an entity under contract with the department of developmental disabilities or a county board of developmental disabilities; 65032
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(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities. 65035
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(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 activity or task. 65038
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(I) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs. 65045
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(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.~~ 65048
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65050

(K) "Specialized services" has the same meaning as in section 5123.50 of the Revised Code. 65051
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(L) "Tube feeding" means the provision of nutrition to an individual through a gastrostomy tube or a jejunostomy tube. 65053
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Sec. 5123.50. As used in ~~this section and sections 5123.51, 5123.52, and 5123.541~~ 5123.50 to 5123.542 of the Revised Code: 65055
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| (A) "Abuse" means all of the following: | 65057 |
| (1) The use of physical force that can reasonably be expected to result in physical harm or serious physical harm; | 65058 65059 |
| (2) Sexual abuse; | 65060 |
| (3) Verbal abuse. | 65061 |
| (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. | 65062 65063 65064 65065 |
| (C) "MR/DD employee" means all of the following: | 65066 |
| (1) An employee of the department of developmental disabilities; | 65067 65068 |
| (2) An employee of a county board of developmental disabilities; | 65069 65070 |
| (3) An employee in a position that includes providing specialized services to an individual with mental retardation or another developmental disability; | 65071 65072 65073 |
| <u>(4) An independent provider as defined in section 5123.16 of the Revised Code.</u> | 65074 65075 |
| (D) "Neglect" means, when there is a duty to do so, failing to provide an individual with any treatment, care, goods, or services that are necessary to maintain the health and safety of the individual. | 65076 65077 65078 65079 |
| (E) <u>"Offense of violence" has the same meaning as in section 2901.01 of the Revised Code.</u> | 65080 65081 |
| (F) "Physical harm" and "serious physical harm" have the same meanings as in section 2901.01 of the Revised Code. | 65082 65083 |
| (F) (G) <u>"Prescribed medication" has the same meaning as in section 5123.41 of the Revised Code.</u> | 65084 65085 |

(H) "Sexual abuse" means unlawful sexual conduct or sexual contact. 65086
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~~(G)~~(I) "Specialized services" means any program or service 65088
designed and operated to serve primarily individuals with mental 65089
retardation or a developmental disability, including a program or 65090
service provided by an entity licensed or certified by the 65091
department of developmental disabilities. A program or service 65092
available to the general public is not a specialized service. 65093

~~(H)~~(J) "Verbal abuse" means purposely using words to 65094
threaten, coerce, intimidate, harass, or humiliate an individual. 65095

~~(I)~~(K) "Sexual conduct," "sexual contact," and "spouse" have 65096
the same meanings as in section 2907.01 of the Revised Code. 65097

Sec. 5123.51. (A) In addition to any other action required by 65098
sections 5123.61 and 5126.31 of the Revised Code, the department 65099
of developmental disabilities shall review each report the 65100
department receives of abuse or neglect of an individual with 65101
mental retardation or a developmental disability or 65102
misappropriation of an individual's property that includes an 65103
allegation that an MR/DD employee committed or was responsible for 65104
the abuse, neglect, or misappropriation. The department shall 65105
review a report it receives from a public children services agency 65106
only after the agency completes its investigation pursuant to 65107
section 2151.421 of the Revised Code. On receipt of a notice under 65108
section 2930.061 or 5123.541 of the Revised Code, the department 65109
shall review the notice. 65110

(B) The department shall do both of the following: 65111

(1) Investigate the allegation or adopt the findings of an 65112
investigation or review of the allegation conducted by another 65113
person or government entity and determine whether there is a 65114
reasonable basis for the allegation; 65115

(2) If the department determines that there is a reasonable basis for the allegation, conduct an adjudication pursuant to Chapter 119. of the Revised Code.

(C)(1) The department shall appoint an independent hearing officer to conduct any hearing conducted pursuant to division (B)(2) of this section, except that, if the hearing is regarding an employee of the department who is represented by a union, the department and a representative of the union shall jointly select the hearing officer.

(2)(a) Except as provided in division (C)(2)(b) of this section, no hearing shall be conducted under division (B)(2) of this section until any criminal proceeding or collective bargaining arbitration concerning the same allegation has concluded.

(b) The department may conduct a hearing pursuant to division (B)(2) of this section before a criminal proceeding concerning the same allegation is concluded if both of the following are the case:

(i) The department notifies the prosecutor responsible for the criminal proceeding that the department proposes to conduct a hearing.

(ii) The prosecutor consents to the hearing.

(3) In conducting a hearing pursuant to division (B)(2) of this section, the hearing officer shall do all of the following:

(a) Determine whether there is clear and convincing evidence that the MR/DD employee has done any of the following:

(i) Misappropriated property of one or more individuals with mental retardation or a developmental disability that has a value, either separately or taken together, of one hundred dollars or more;

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| (ii) Misappropriated property of an individual with mental retardation or a developmental disability that is designed to be used as a check, draft, negotiable instrument, credit card, charge card, or device for initiating an electronic fund transfer at a point of sale terminal, automated teller machine, or cash dispensing machine; | 65146 65147 65148 65149 65150 65151 |
| (iii) <u>Misappropriated prescribed medication of an individual with mental retardation or a developmental disability;</u> | 65152 65153 |
| (iv) Knowingly abused such an individual; | 65154 |
| (iv) (v) Recklessly abused or neglected such an individual, with resulting physical harm; | 65155 65156 |
| (v) (vi) Negligently abused or neglected such an individual, with resulting serious physical harm; | 65157 65158 |
| (vi) (vii) Recklessly neglected such an individual, creating a substantial risk of serious physical harm; | 65159 65160 |
| (vii) (viii) Engaged in sexual conduct or had sexual contact with an individual with mental retardation or another developmental disability who was not the MR/DD employee's spouse and for whom the MR/DD employee was employed or under a contract to provide care; | 65161 65162 65163 65164 65165 |
| (viii) (ix) Unreasonably failed to make a report pursuant to division (C) of section 5123.61 of the Revised Code when the employee knew or should have known that the failure would result in a substantial risk of harm to an individual with mental retardation or a developmental disability; | 65166 65167 65168 65169 65170 |
| (x) <u>Been convicted of or entered a plea of guilty to any of the following if the victim of the offense is an individual with mental retardation or a developmental disability: an offense of violence, a violation of a section contained in Chapter 2907. or Chapter 2913. of the Revised Code, or a violation of section</u> | 65171 65172 65173 65174 65175 |

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| <u>2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code.</u> | 65176 |
| (b) Give weight to the decision in any collective bargaining arbitration regarding the same allegation; | 65177 65178 |
| (c) Give weight to any relevant facts presented at the hearing. | 65179 65180 |
| (D)(1) Unless the director of developmental disabilities determines that there are extenuating circumstances and except as provided in division (E) of this section, if the director, after considering all of the factors listed in division (C)(3) of this section, finds that there is clear and convincing evidence that an MR/DD employee has done one or more of the things described in division (C)(3)(a) of this section the director shall include the name of the employee in the registry established under section 5123.52 of the Revised Code. | 65181 65182 65183 65184 65185 65186 65187 65188 65189 |
| (2) Extenuating circumstances the director must consider include the use of physical force by an MR/DD employee that was necessary as self-defense. | 65190 65191 65192 |
| (3) If the director includes an MR/DD employee in the registry established under section 5123.52 of the Revised Code, the director shall notify the employee, the person or government entity that employs or contracts with the employee, the individual with mental retardation or a developmental disability who was the subject of the report and that individual's legal guardian, if any, the attorney general, and the prosecuting attorney or other law enforcement agency. If the MR/DD employee holds a license, certificate, registration, or other authorization to engage in a profession issued pursuant to Title XLVII of the Revised Code, the director shall notify the appropriate agency, board, department, or other entity responsible for regulating the employee's professional practice. | 65193 65194 65195 65196 65197 65198 65199 65200 65201 65202 65203 65204 65205 |
| (4) If an individual whose name appears on the registry is | 65206 |

involved in a court proceeding or arbitration arising from the 65207
same facts as the allegation resulting in the individual's 65208
placement on the registry, the disposition of the proceeding or 65209
arbitration shall be noted in the registry next to the 65210
individual's name. 65211

(E) In the case of an allegation concerning an employee of 65212
the department, after the hearing conducted pursuant to division 65213
(B)(2) of this section, the director of health or that director's 65214
designee shall review the decision of the hearing officer to 65215
determine whether the standard described in division (C)(3) of 65216
this section has been met. If the director or designee determines 65217
that the standard has been met and that no extenuating 65218
circumstances exist, the director or designee shall notify the 65219
director of developmental disabilities that the MR/DD employee is 65220
to be included in the registry established under section 5123.52 65221
of the Revised Code. If the director of developmental disabilities 65222
receives such notification, the director shall include the MR/DD 65223
employee in the registry and shall provide the notification 65224
described in division (D)(3) of this section. 65225

(F) If the department is required by Chapter 119. of the 65226
Revised Code to give notice of an opportunity for a hearing and 65227
the MR/DD employee subject to the notice does not timely request a 65228
hearing in accordance with section 119.07 or 5123.0414 of the 65229
Revised Code, the department is not required to hold a hearing. 65230

(G) Files and records of investigations conducted pursuant to 65231
this section are not public records as defined in section 149.43 65232
of the Revised Code, but, on request, the department shall provide 65233
copies of those files and records to the attorney general, a 65234
prosecuting attorney, or a law enforcement agency. 65235

Sec. 5123.542. (A) Each of the following shall annually 65236
provide a written notice to each of its MR/DD employees explaining 65237

the conduct for which an MR/DD employee may be included in the registry established under section 5123.52 of the Revised Code: 65238
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(1) The department of developmental disabilities; 65240

(2) Each county board of developmental disabilities; 65241

(3) Each ~~contracting entity~~ provider and subcontractor, as defined in section ~~5126.281~~ 5123.081 of the Revised Code; 65242
65243

(4) Each owner, operator, or administrator of a residential facility, as defined in section 5123.19 of the Revised Code; 65244
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(5) Each owner, operator, or administrator of a program certified by the department to provide supported living. 65246
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(B) The department of developmental disabilities or a county board of developmental disabilities shall provide the notice required by division (A) of this section to an MR/DD employee who is an independent provider as defined in section 5123.16 of the Revised Code. 65248
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(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. 65253
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(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. 65258
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Sec. 5123.61. (A) As used in this section: 65262

(1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff. 65263
65264
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(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 such information to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or to the county board of developmental disabilities. If the report concerns a resident of a facility operated by the department of developmental disabilities the report shall be made either to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(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, 65297
any dentist, podiatrist, chiropractor, practitioner of a limited 65298
branch of medicine as specified in section 4731.15 of the Revised 65299
Code, hospital administrator or employee of a hospital, nurse 65300
licensed under Chapter 4723. of the Revised Code, employee of an 65301
ambulatory health facility as defined in section 5101.61 of the 65302
Revised Code, employee of a home health agency, employee of ~~an~~ 65303
~~adult care residential~~ facility licensed under ~~Chapter 3722.~~ 65304
section 5119.22 of the Revised Code that provides accommodations, 65305
supervision, and personal care services for three to sixteen 65306
unrelated adults, or employee of a community mental health 65307
facility; 65308

(b) Any school teacher or school authority, social worker, 65309
psychologist, attorney, peace officer, coroner, or residents' 65310
rights advocate as defined in section 3721.10 of the Revised Code; 65311

(c) A superintendent, board member, or employee of a county 65312
board of developmental disabilities; an administrator, board 65313
member, or employee of a residential facility licensed under 65314
section 5123.19 of the Revised Code; an administrator, board 65315
member, or employee of any other public or private provider of 65316
services to a person with mental retardation or a developmental 65317
disability, or any MR/DD employee, as defined in section 5123.50 65318
of the Revised Code; 65319

(d) A member of a citizen's advisory council established at 65320
an institution or branch institution of the department of 65321
developmental disabilities under section 5123.092 of the Revised 65322
Code; 65323

(e) A ~~clergyman~~ member of the clergy who is employed in a 65324
position that includes providing specialized services to an 65325
individual with mental retardation or another developmental 65326
disability, while acting in an official or professional capacity 65327
in that position, or a person who is employed in a position that 65328

includes providing specialized services to an individual with 65329
mental retardation or another developmental disability and who, 65330
while acting in an official or professional capacity, renders 65331
spiritual treatment through prayer in accordance with the tenets 65332
of an organized religion. 65333

(3)(a) The reporting requirements of this division do not 65334
apply to members of the legal rights service commission or to 65335
employees of the legal rights service. 65336

(b) An attorney or physician is not required to make a report 65337
pursuant to division (C)(1) of this section concerning any 65338
communication the attorney or physician receives from a client or 65339
patient in an attorney-client or physician-patient relationship, 65340
if, in accordance with division (A) or (B) of section 2317.02 of 65341
the Revised Code, the attorney or physician could not testify with 65342
respect to that communication in a civil or criminal proceeding, 65343
except that the client or patient is deemed to have waived any 65344
testimonial privilege under division (A) or (B) of section 2317.02 65345
of the Revised Code with respect to that communication and the 65346
attorney or physician shall make a report pursuant to division 65347
(C)(1) of this section, if both of the following apply: 65348

(i) The client or patient, at the time of the communication, 65349
is a person with mental retardation or a developmental disability. 65350

(ii) The attorney or physician knows or suspects, as a result 65351
of the communication or any observations made during that 65352
communication, that the client or patient has suffered or faces a 65353
substantial risk of suffering any wound, injury, disability, or 65354
condition of a nature that reasonably indicates abuse or neglect 65355
of the client or patient. 65356

(4) Any person who fails to make a report required under 65357
division (C) of this section and who is an MR/DD employee, as 65358
defined in section 5123.50 of the Revised Code, shall be eligible 65359

to be included in the registry regarding misappropriation, abuse, 65360
neglect, or other specified misconduct by MR/DD employees 65361
established under section 5123.52 of the Revised Code. 65362

(D) The reports required under division (C) of this section 65363
shall be made forthwith by telephone or in person and shall be 65364
followed by a written report. The reports shall contain the 65365
following: 65366

(1) The names and addresses of the person with mental 65367
retardation or a developmental disability and the person's 65368
custodian, if known; 65369

(2) The age of the person with mental retardation or a 65370
developmental disability; 65371

(3) Any other information that would assist in the 65372
investigation of the report. 65373

(E) When a physician performing services as a member of the 65374
staff of a hospital or similar institution has reason to believe 65375
that a person with mental retardation or a developmental 65376
disability has suffered injury, abuse, or physical neglect, the 65377
physician shall notify the person in charge of the institution or 65378
that person's designated delegate, who shall make the necessary 65379
reports. 65380

(F) Any person having reasonable cause to believe that a 65381
person with mental retardation or a developmental disability has 65382
suffered or faces a substantial risk of suffering abuse or neglect 65383
may report or cause a report to be made of that belief to the 65384
entity specified in this division. Except as provided in section 65385
5120.173 of the Revised Code or as otherwise provided in this 65386
division, the person making the report shall make it to a law 65387
enforcement agency or the county board of developmental 65388
disabilities. If the person is a resident of a facility operated 65389
by the department of developmental disabilities, the report shall 65390

be made to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(G)(1) Upon the receipt of a report concerning the possible abuse or neglect of a person with mental retardation or a developmental disability, the law enforcement agency shall inform the county board of developmental disabilities or, if the person is a resident of a facility operated by the department of developmental disabilities, the director of the department or the director's designee.

(2) On receipt of a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the department of developmental disabilities shall notify the law enforcement agency.

(3) When a county board of developmental disabilities receives a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the superintendent of the board or an individual the superintendent designates under division (H) of this section shall notify the law enforcement agency. The superintendent or individual shall notify the department of developmental disabilities when it receives any report under this section.

(4) When a county board of developmental disabilities receives a report under this section and believes that the degree of risk to the person is such that the report is an emergency, the superintendent of the board or an employee of the board the superintendent designates shall attempt a face-to-face contact with the person with mental retardation or a developmental disability who allegedly is the victim within one hour of the

board's receipt of the report. 65423

(H) The superintendent of the board may designate an 65424
individual to be responsible for notifying the law enforcement 65425
agency and the department when the county board receives a report 65426
under this section. 65427

(I) An adult with mental retardation or a developmental 65428
disability about whom a report is made may be removed from the 65429
adult's place of residence only by law enforcement officers who 65430
consider that the adult's immediate removal is essential to 65431
protect the adult from further injury or abuse or in accordance 65432
with the order of a court made pursuant to section 5126.33 of the 65433
Revised Code. 65434

(J) A law enforcement agency shall investigate each report of 65435
abuse or neglect it receives under this section. In addition, the 65436
department, in cooperation with law enforcement officials, shall 65437
investigate each report regarding a resident of a facility 65438
operated by the department to determine the circumstances 65439
surrounding the injury, the cause of the injury, and the person 65440
responsible. The investigation shall be in accordance with the 65441
memorandum of understanding prepared under section 5126.058 of the 65442
Revised Code. The department shall determine, with the registry 65443
office which shall be maintained by the department, whether prior 65444
reports have been made concerning an adult with mental retardation 65445
or a developmental disability or other principals in the case. If 65446
the department finds that the report involves action or inaction 65447
that may constitute a crime under federal law or the law of this 65448
state, it shall submit a report of its investigation, in writing, 65449
to the law enforcement agency. If the person with mental 65450
retardation or a developmental disability is an adult, with the 65451
consent of the adult, the department shall provide such protective 65452
services as are necessary to protect the adult. The law 65453
enforcement agency shall make a written report of its findings to 65454

the department. 65455

If the person is an adult and is not a resident of a facility 65456
operated by the department, the county board of developmental 65457
disabilities shall review the report of abuse or neglect in 65458
accordance with sections 5126.30 to 5126.33 of the Revised Code 65459
and the law enforcement agency shall make the written report of 65460
its findings to the county board. 65461

(K) Any person or any hospital, institution, school, health 65462
department, or agency participating in the making of reports 65463
pursuant to this section, any person participating as a witness in 65464
an administrative or judicial proceeding resulting from the 65465
reports, or any person or governmental entity that discharges 65466
responsibilities under sections 5126.31 to 5126.33 of the Revised 65467
Code shall be immune from any civil or criminal liability that 65468
might otherwise be incurred or imposed as a result of such actions 65469
except liability for perjury, unless the person or governmental 65470
entity has acted in bad faith or with malicious purpose. 65471

(L) No employer or any person with the authority to do so 65472
shall discharge, demote, transfer, prepare a negative work 65473
performance evaluation, reduce pay or benefits, terminate work 65474
privileges, or take any other action detrimental to an employee or 65475
retaliate against an employee as a result of the employee's having 65476
made a report under this section. This division does not preclude 65477
an employer or person with authority from taking action with 65478
regard to an employee who has made a report under this section if 65479
there is another reasonable basis for the action. 65480

(M) Reports made under this section are not public records as 65481
defined in section 149.43 of the Revised Code. Information 65482
contained in the reports on request shall be made available to the 65483
person who is the subject of the report, to the person's legal 65484
counsel, and to agencies authorized to receive information in the 65485
report by the department or by a county board of developmental 65486

disabilities. 65487

(N) Notwithstanding section 4731.22 of the Revised Code, the 65488
physician-patient privilege shall not be a ground for excluding 65489
evidence regarding the injuries or physical neglect of a person 65490
with mental retardation or a developmental disability or the cause 65491
thereof in any judicial proceeding resulting from a report 65492
submitted pursuant to this section. 65493

Sec. 5123.89. (A) All certificates, applications, records, 65494
and reports made for the purpose of this chapter, other than court 65495
journal entries or court docket entries, which directly or 65496
indirectly identify a resident or former resident of an 65497
institution for the mentally retarded or person whose 65498
institutionalization has been sought under this chapter shall be 65499
kept confidential and shall not be disclosed by any person except 65500
in the following situations: 65501

(1) It is the judgment of the court for judicial records, and 65502
the managing officer for institution records, that disclosure is 65503
in the best interest of the person identified, and that person or 65504
that person's guardian or, if that person is a minor, that 65505
person's parent or guardian consents. 65506

(2) Disclosure is provided for in other sections of this 65507
chapter. 65508

(3) It is the judgment of the managing officer for 65509
institution records that disclosure to a mental health facility is 65510
in the best interest of the person identified. 65511

(4) Disclosure is of a record deposited with the Ohio 65512
historical society pursuant to division (C) of section 5123.31 of 65513
the Revised Code and the disclosure is made to the closest living 65514
relative of the person identified, on the relative's request. 65515

(B) The department of developmental disabilities shall adopt 65516

rules with respect to the systematic and periodic destruction of residents' records.

(C)(1) As used in this division, "family" means a parent, brother, sister, spouse, son, daughter, grandparent, aunt, uncle, or cousin.

(2) Upon the death of a resident or former resident of an institution for the mentally retarded or a person whose institutionalization was sought under this chapter, the managing officer of an institution shall provide access to the certificates, applications, records, and reports made for the purposes of this chapter to the resident's, former resident's, or person's guardian if the guardian makes a written request. If a deceased resident, former resident, or person whose institutionalization was sought under this chapter did not have a guardian at the time of death, the managing officer shall provide access to the certificates, applications, records, and reports made for purposes of this chapter to a member of the person's family, upon that family member's written request.

(D) No person shall reveal the contents of a record of a resident except as authorized by this chapter.

Sec. 5126.023. ~~(A)~~ None of the following individuals may serve as a member of a county board of developmental disabilities:

~~(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;

~~(2)~~(B) An immediate family member of ~~another~~ a member of the same county board ~~member~~;

~~(3)~~ ~~A county board~~ (C) An employee of any county board;

(D) An immediate family member of a county board ~~an~~ employee

of the same county board; 65547

~~(4)(E)~~ A former employee of ~~the~~ a county board whose 65548
employment ~~with the county board~~ ceased less than ~~one~~ four 65549
calendar ~~year~~ years before the former employee would begin to 65550
serve as a member of the same county board; 65551

~~(5)(F)~~ A former employee of a county board whose employment 65552
ceased less than two years before the former employee would begin 65553
to serve as a member of a different county board; 65554

(G) An individual who or whose immediate family member is a 65555
board member ~~or an employee~~ of an agency licensed or certified by 65556
the department of developmental disabilities to provide services 65557
to individuals with mental retardation or developmental 65558
disabilities or an individual who or whose immediate family member 65559
is an employee of such an agency; 65560

~~(6)~~ ~~An individual who or whose immediate family member is a~~ 65561
~~board member or employee of an agency contracting with the county~~ 65562
~~board that is not licensed or certified by the department of~~ 65563
~~developmental disabilities to provide services to individuals with~~ 65564
~~mental retardation or developmental disabilities unless there is~~ 65565
~~no conflict of interest;~~ 65566

~~(7)(H)~~ An individual with an immediate family member who 65567
serves as a county commissioner of a county served by the county 65568
board unless the individual was a member of the county board 65569
before October 31, 1980. 65570

~~(B)~~ ~~All questions relating to the existence of a conflict of~~ 65571
~~interest for the purpose of division (A)(6) of this section shall~~ 65572
~~be submitted to the local prosecuting attorney for resolution. The~~ 65573
~~Ohio ethics commission may examine any issues arising under~~ 65574
~~Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the~~ 65575
~~Revised Code.~~ 65576

Sec. 5126.0220. (A) The superintendent of the county board of developmental disabilities shall do all of the following: 65577
65578

~~(A)~~(1) Administer the work of the board, subject to the board's rules; 65579
65580

~~(B)~~(2) Recommend to the board the changes necessary to increase the effectiveness of the programs and services offered pursuant to Chapters 3323. and 5126. of the Revised Code; 65581
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~~(C)~~(3) Employ persons for all positions authorized by the board, approve contracts of employment for management employees that are for a term of one year or less, and approve personnel actions that involve employees in the classified civil service as may be necessary for the work of the board; 65584
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~~(D)~~(4) Approve compensation for employees within the limits set by the salary schedule and budget set by the board ~~and in accordance with section 5126.26 of the Revised Code~~, and ensure that all employees and consultants are properly reimbursed for actual and necessary expenses incurred in the performance of official duties; 65589
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~~(E)~~(5) Provide consultation to public agencies as defined in division (C) of section 102.01 of the Revised Code, including other county boards of developmental disabilities, and to individuals, agencies, or organizations providing services supported by the board. 65595
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(B) The superintendent may authorize the payment of board obligations by the county auditor. 65600
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Sec. 5126.0221. (A) As used in this section, "specialized services" has the same meaning as in section ~~5126.281~~ 5123.081 of the Revised Code. 65602
65603
65604

(B) Except as provided in division (C) of section 5126.033 of 65605

the Revised Code, none of the following individuals may be employed by a county board of developmental disabilities:

(1) An employee of an agency contracting with the county board;

(2) An immediate family member of an employee of an agency contracting with the county board unless the county board adopts a resolution authorizing the immediate family member's employment with the county board or the employment is consistent with a policy adopted by the board establishing parameters for such employment and the policy is consistent with Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the Revised Code;

(3) An individual with an immediate family member who serves as a county commissioner of any of the counties served by the county board unless the individual was an employee of the county board before October 31, 1980;

(4) An individual who is employed by, has an ownership interest in, performs or provides administrative duties for, or is a member of the governing board of an entity that provides specialized services, regardless of whether the entity contracts with the county board to provide specialized services.

~~Sec. 5126.043. When an individual with mental retardation or other developmental disability is required within this chapter to consent, refuse to give consent, or withdraw consent for services and the individual has been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code, the guardian for the individual appointed under that chapter and functioning in accordance with the appointment shall be responsible for giving, refusing to give, or withdrawing the consent for services.~~

Individuals (A) Unless a guardian has been appointed for the individual, when a decision regarding receipt of a service or

participation in a program provided for or funded under this 65636
chapter or Chapter 5123. of the Revised Code by an individual with 65637
mental retardation or other developmental disability must be made, 65638
the individual shall be permitted to make the decision. The 65639
individual may obtain support and guidance from an adult family 65640
member or other person, but doing so does not affect the right of 65641
the individual to make the decision. 65642

(B) An individual with mental retardation or other 65643
developmental disability may authorize an adult to make a decision 65644
described in division (A) of this section on the individual's 65645
behalf, as long as the adult does not have a financial interest in 65646
the decision. The authorization shall be made in writing. 65647

(C) If a guardian has been appointed for an individual with 65648
mental retardation or other developmental disability, the guardian 65649
shall make any decision described in division (A) of this section 65650
on behalf of the individual. This section does not require 65651
appointment of a guardian. 65652

(D) Individuals with mental retardation and other 65653
developmental disabilities, including those who have been 65654
adjudicated incompetent pursuant to Chapter 2111. of the Revised 65655
Code, have the right to participate in decisions that affect their 65656
lives and to have their needs, desires, and preferences 65657
considered. An adult or guardian who makes a decision pursuant to 65658
division (B) or (C) of this section shall make a decision that is 65659
in the best interests of the individual on whose behalf the 65660
decision is made and that is consistent with the needs, desires, 65661
and preferences of that individual. 65662

Sec. 5126.046. ~~(A) Each county board of developmental~~ 65663
~~disabilities that has medicaid local administrative authority~~ 65664
~~under division (A) of section 5126.055 of the Revised Code for~~ 65665
~~habilitation, vocational, or community employment services~~ 65666

~~provided as part of home and community based services shall create 65667
a list of all persons and government entities eligible to provide 65668
such habilitation, vocational, or community employment services. 65669
If the county board chooses and is eligible to provide such 65670
habilitation, vocational, or community employment services, the 65671
county board shall include itself on the list. The county board 65672
shall make the list available to each individual with mental 65673
retardation or other developmental disability who resides in the 65674
county and is eligible for such habilitation, vocational, or 65675
community employment services. The county board shall also make 65676
the list available to such individuals' families. 65677~~

~~An Except as otherwise provided by 42 C.F.R. 431.51, an 65678
individual with mental retardation or other developmental 65679
disability who is eligible for habilitation, vocational, or 65680
community employment home and community-based services may choose 65681
the has the right to obtain the services from any provider of the 65682
services. 65683~~

~~(B) Each month, the department of developmental disabilities 65684
shall create a list of all persons and government entities 65685
eligible to provide residential services and supported living. The 65686
department shall include on the list all residential facilities 65687
licensed under section 5123.19 of the Revised Code and all 65688
supported living providers certified under section 5123.161 of the 65689
Revised Code. The department shall distribute the monthly lists to 65690
county boards that have local administrative authority under 65691
division (A) of section 5126.055 of the Revised Code for 65692
residential services and supported living provided as part of home 65693
and community based services. A county board that receives a list 65694
shall make it available to each individual with mental retardation 65695
or other developmental disability who resides in the county and is 65696
eligible for such residential services or supported living. The 65697
county board shall also make the list available to the families of 65698~~

~~those individuals that is qualified to furnish the services and is~~ 65699
~~willing to furnish the services to the individual. A county board~~ 65700
~~of developmental disabilities that has medicaid local~~ 65701
~~administrative authority under division (A) of section 5126.055 of~~ 65702
~~the Revised Code for home and community-based services and refuses~~ 65703
~~to permit an individual to obtain home and community-based~~ 65704
~~services from a qualified and willing provider shall provide the~~ 65705
~~individual timely notice that the individual may request a hearing~~ 65706
~~under section 5101.35 of the Revised Code.~~ 65707

(B) ~~An individual with mental retardation or other~~ 65708
~~developmental disability who is eligible for nonmedicaid~~ 65709
~~residential services or nonmedicaid supported living may choose~~ 65710
~~the has the right to obtain the services from any provider of the~~ 65711
~~residential services or supported living that is qualified to~~ 65712
~~furnish the residential services or supported living and is~~ 65713
~~willing to furnish the residential services or supported living to~~ 65714
~~the individual.~~ 65715

(C) ~~If a county board that has medicaid local administrative~~ 65716
~~authority under division (A) of section 5126.055 of the Revised~~ 65717
~~Code for home and community based services violates the right~~ 65718
~~established by this section of an individual to choose a provider~~ 65719
~~that is qualified and willing to provide services to the~~ 65720
~~individual, the individual shall receive timely notice that the~~ 65721
~~individual may request a hearing under section 5101.35 of the~~ 65722
~~Revised Code.~~ 65723

(D) ~~The departments director~~ of developmental disabilities 65724
~~and job and family services shall adopt rules in accordance with~~ 65725
Chapter 119. of the Revised Code governing the implementation of 65726
this section. The rules shall include procedures for individuals 65727
to choose their service providers. The rules shall not be limited 65728
by a provider selection system established under section 5126.42 65729
of the Revised Code, including any pool of providers created 65730

pursuant to a provider selection system. 65731

Sec. 5126.055. (A) Except as provided in section 5126.056 of 65732
the Revised Code, a county board of developmental disabilities has 65733
medicaid local administrative authority to, and shall, do all of 65734
the following for an individual with mental retardation or other 65735
developmental disability who resides in the county that the county 65736
board serves and seeks or receives home and community-based 65737
services: 65738

(1) Perform assessments and evaluations of the individual. As 65739
part of the assessment and evaluation process, the county board 65740
shall do all of the following: 65741

(a) Make a recommendation to the department of developmental 65742
disabilities on whether the department should approve or deny the 65743
individual's application for the services, including on the basis 65744
of whether the individual needs the level of care an intermediate 65745
care facility for the mentally retarded provides; 65746

(b) If the individual's application is denied because of the 65747
county board's recommendation and the individual requests a 65748
hearing under section 5101.35 of the Revised Code, present, with 65749
the department of developmental disabilities or department of job 65750
and family services, whichever denies the application, the reasons 65751
for the recommendation and denial at the hearing; 65752

(c) If the individual's application is approved, recommend to 65753
the departments of developmental disabilities and job and family 65754
services the services that should be included in the individual's 65755
individualized service plan and, if either department approves, 65756
reduces, denies, or terminates a service included in the 65757
individual's individualized service plan under section 5111.871 of 65758
the Revised Code because of the county board's recommendation, 65759
present, with the department that made the approval, reduction, 65760
denial, or termination, the reasons for the recommendation and 65761

approval, reduction, denial, or termination at a hearing under 65762
section 5101.35 of the Revised Code. 65763

(2) ~~In accordance with the rules adopted under section 65764
5126.046 of the Revised Code, perform the county board's~~ Perform 65765
any duties assigned to the county board in rules adopted 65766
~~that~~ section 5126.046 of the Revised Code regarding ~~assisting~~ the 65767
individual's right to choose a qualified and willing provider of 65768
the services and, at a hearing under section 5101.35 of the 65769
Revised Code, present evidence of the process for appropriate 65770
assistance in choosing providers; 65771

(3) If the county board is certified under section 5123.161 65772
of the Revised Code to provide the services and agrees to provide 65773
the services to the individual and the individual chooses the 65774
county board to provide the services, furnish, in accordance with 65775
the county board's medicaid provider agreement and for the 65776
authorized reimbursement rate, the services the individual 65777
requires; 65778

(4) Monitor the services provided to the individual and 65779
ensure the individual's health, safety, and welfare. The 65780
monitoring shall include quality assurance activities. If the 65781
county board provides the services, the department of 65782
developmental disabilities shall also monitor the services. 65783

(5) Develop, with the individual and the provider of the 65784
individual's services, an effective individualized service plan 65785
that includes coordination of services, recommend that the 65786
departments of developmental disabilities and job and family 65787
services approve the plan, and implement the plan unless either 65788
department disapproves it. The individualized service plan shall 65789
include a summary page, agreed to by the county board, provider, 65790
and individual receiving services, that clearly outlines the 65791
amount, duration, and scope of services to be provided under the 65792
plan. 65793

(6) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual; 65794
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(7) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the individual. 65796
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(B) A county board shall perform its medicaid local administrative authority under this section in accordance with all of the following: 65799
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(1) The county board's plan that the department of developmental disabilities approves under section 5123.046 of the Revised Code; 65802
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(2) All applicable federal and state laws; 65805

(3) All applicable policies of the departments of developmental disabilities and job and family services and the United States department of health and human services; 65806
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(4) The department of job and family services' supervision under its authority under section 5111.01 of the Revised Code to act as the single state medicaid agency; 65809
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(5) The department of developmental disabilities' oversight. 65812

(C) The departments of developmental disabilities and job and family services shall communicate with and provide training to county boards regarding medicaid local administrative authority granted by this section. The communication and training shall include issues regarding audit protocols and other standards established by the United States department of health and human services that the departments determine appropriate for communication and training. County boards shall participate in the training. The departments shall assess the county board's compliance against uniform standards that the departments shall establish. 65813
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(D) A county board may not delegate its medicaid local administrative authority granted under this section but may contract with a person or government entity, including a council of governments, for assistance with its medicaid local administrative authority. A county board that enters into such a contract shall notify the director of developmental disabilities. The notice shall include the tasks and responsibilities that the contract gives to the person or government entity. The person or government entity shall comply in full with all requirements to which the county board is subject regarding the person or government entity's tasks and responsibilities under the contract. The county board remains ultimately responsible for the tasks and responsibilities.

(E) A county board that has medicaid local administrative authority under this section shall, through the departments of developmental disabilities and job and family services, reply to, and cooperate in arranging compliance with, a program or fiscal audit or program violation exception that a state or federal audit or review discovers. The department of job and family services shall timely notify the department of developmental disabilities and the county board of any adverse findings. After receiving the notice, the county board, in conjunction with the department of developmental disabilities, shall cooperate fully with the department of job and family services and timely prepare and send to the department a written plan of correction or response to the adverse findings. The county board is liable for any adverse findings that result from an action it takes or fails to take in its implementation of medicaid local administrative authority.

(F) If the department of developmental disabilities or department of job and family services determines that a county board's implementation of its medicaid local administrative authority under this section is deficient, the department that

makes the determination shall require that county board do the 65856
following: 65857

(1) If the deficiency affects the health, safety, or welfare 65858
of an individual with mental retardation or other developmental 65859
disability, correct the deficiency within twenty-four hours; 65860

(2) If the deficiency does not affect the health, safety, or 65861
welfare of an individual with mental retardation or other 65862
developmental disability, receive technical assistance from the 65863
department or submit a plan of correction to the department that 65864
is acceptable to the department within sixty days and correct the 65865
deficiency within the time required by the plan of correction. 65866

Sec. 5126.13. (A) A county board of developmental 65867
disabilities may enter into an agreement with one or more other 65868
county boards of developmental disabilities to establish a 65869
regional council in accordance with Chapter 167. of the Revised 65870
Code. The agreement shall specify the duties and functions to be 65871
performed by the council, which may include any duty or function a 65872
county board is required or authorized to perform under this 65873
chapter. ~~If directed to do so by a resolution adopted by a county 65874
board that is a member of a regional council, the department of 65875
developmental disabilities shall make any distributions of money 65876
for that county for the duties or functions performed by the 65877
council pursuant to its agreement that are otherwise required to 65878
be made to the county board under this chapter to the fiscal 65879
officer of the council designated under section 167.04 of the 65880
Revised Code.~~ 65881

A county board may also enter into an agreement with one or 65882
more school districts or other political subdivisions to establish 65883
a regional council in accordance with Chapter 167. of the Revised 65884
Code. 65885

(B) On or before the thirtieth day of March, the fiscal 65886

officer of a regional council described in this section shall 65887
report to the department of developmental disabilities, in the 65888
format specified by the department, all income and operating 65889
expenditures of the council for the immediately preceding calendar 65890
year. 65891

Sec. 5126.15. (A) A county board of developmental 65892
disabilities shall provide service and support administration to 65893
each individual three years of age or older who is eligible for 65894
service and support administration if the individual requests, or 65895
a person on the individual's behalf requests, service and support 65896
administration. A board shall provide service and support 65897
administration to each individual receiving home and 65898
community-based services. A board may provide, in accordance with 65899
the service coordination requirements of 34 C.F.R. 303.23, service 65900
and support administration to an individual under three years of 65901
age eligible for early intervention services under 34 C.F.R. part 65902
303. A board may provide service and support administration to an 65903
individual who is not eligible for other services of the board. 65904
Service and support administration shall be provided in accordance 65905
with rules adopted under section 5126.08 of the Revised Code. 65906

A board may provide service and support administration by 65907
directly employing service and support administrators or by 65908
contracting with entities for the performance of service and 65909
support administration. Individuals employed or under contract as 65910
service and support administrators shall not be in the same 65911
collective bargaining unit as employees who perform duties that 65912
are not administrative. 65913

Individuals employed by a board as service and support 65914
administrators shall not be assigned responsibilities for 65915
implementing other services for individuals and shall not be 65916
employed by or serve in a decision-making or policy-making 65917

capacity for any other entity that provides programs or services 65918
to individuals with mental retardation or developmental 65919
disabilities. An individual employed as a conditional status 65920
service and support administrator shall perform the duties of 65921
service and support administration only under the supervision of a 65922
management employee who is a service and support administration 65923
supervisor. 65924

(B) The individuals employed by or under contract with a 65925
board to provide service and support administration shall do all 65926
of the following: 65927

(1) Establish an individual's eligibility for the services of 65928
the county board of developmental disabilities; 65929

(2) Assess individual needs for services; 65930

(3) Develop individual service plans with the active 65931
participation of the individual to be served, other persons 65932
selected by the individual, and, when applicable, the provider 65933
selected by the individual, and recommend the plans for approval 65934
by the department of developmental disabilities when services 65935
included in the plans are funded through medicaid; 65936

(4) Establish budgets for services based on the individual's 65937
assessed needs and preferred ways of meeting those needs; 65938

(5) Assist individuals in making selections from among the 65939
providers they have chosen; 65940

(6) Ensure that services are effectively coordinated and 65941
provided by appropriate providers; 65942

(7) Establish and implement an ongoing system of monitoring 65943
the implementation of individual service plans to achieve 65944
consistent implementation and the desired outcomes for the 65945
individual; 65946

(8) Perform quality assurance reviews as a distinct function 65947

of service and support administration; 65948

(9) Incorporate the results of quality assurance reviews and 65949
identified trends and patterns of unusual incidents and major 65950
unusual incidents into amendments of an individual's service plan 65951
for the purpose of improving and enhancing the quality and 65952
appropriateness of services rendered to the individual. 65953

~~(10) Ensure that each individual receiving services has a 65954
designated person who is responsible on a continuing basis for 65955
providing the individual with representation, advocacy, advice, 65956
and assistance related to the day to day coordination of services 65957
in accordance with the individual's service plan. The service and 65958
support administrator shall give the individual receiving services 65959
an opportunity to designate the person to provide daily 65960
representation. If the individual declines to make a designation, 65961
the administrator shall make the designation. In either case, the 65962
individual receiving services may change at any time the person 65963
designated to provide daily representation. 65964~~

Sec. 5126.20. As used in this section and sections 5126.21 to 65965
~~5126.29~~ 5126.25 of the Revised Code: 65966

(A) "Service employee" means a person employed by a county 65967
board of developmental disabilities in a position which may 65968
require ~~evidence of~~ registration under section 5126.25 of the 65969
Revised Code but for which a bachelor's degree from an accredited 65970
college or university is not required, and includes employees in 65971
the positions listed in division (C) of section 5126.22 of the 65972
Revised Code. 65973

(B)(1) "Professional employee" means both of the following: 65974

(a) A person employed by a board in a position for which 65975
either a bachelor's degree from an accredited college or 65976
university or a license or certificate issued under Title XLVII of 65977

the Revised Code is a minimum requirement; 65978

(b) A person employed by a board as a conditional status 65979
service and support administrator. 65980

(2) "Professional employee" includes employees in the 65981
positions listed in division (B) of section 5126.22 of the Revised 65982
Code. 65983

(C) "Management employee" means a person employed by a board 65984
in a position having supervisory or managerial responsibilities 65985
and duties, and includes employees in the positions listed in 65986
division (A) of section 5126.22 of the Revised Code. 65987

(D) "Limited contract" means a contract of limited duration 65988
which is renewable at the discretion of the superintendent. 65989

(E) ~~"Continuing contract" means a contract of employment that 65990
was issued prior to June 24, 1988, to a classified employee under 65991
which the employee has completed the employee's probationary 65992
period and under which the employee retains employment until the 65993
employee retires or resigns, is removed pursuant to section 65994
5126.23 of the Revised Code, or is laid off. 65995~~

~~(F)~~ "Supervisory responsibilities and duties" includes the 65996
authority to hire, transfer, suspend, lay off, recall, promote, 65997
discharge, assign, reward, or discipline other employees of the 65998
board; to responsibly direct them; to adjust their grievances; or 65999
to effectively recommend such action, if the exercise of that 66000
authority is not of a merely routine or clerical nature but 66001
requires the use of independent judgment. 66002

~~(G)~~(F) "Managerial responsibilities and duties" includes 66003
formulating policy on behalf of the board, responsibly directing 66004
the implementation of policy, assisting in the preparation for the 66005
conduct of collective negotiations, administering collectively 66006
negotiated agreements, or having a major role in personnel 66007
administration. 66008

~~(H)~~(G) "Investigative agent" means an individual who conducts investigations under section 5126.313 of the Revised Code.

Sec. 5126.21. As used in this section, "management employee" does not include the superintendent of a county board of developmental disabilities.

(A)(1) Each management employee of a county board of developmental disabilities shall hold a limited contract for a period of not less than one year and not more than five years, except that a management employee hired after the beginning of a program year may be employed under a limited contract expiring at the end of the program year. The board shall approve all contracts of employment for management employees that are for a term of more than one year. A management employee shall receive notice of the superintendent's intention not to rehire the employee at least ninety days prior to the expiration of the contract. ~~If the superintendent fails to notify a management employee, the employee shall be reemployed under a limited contract of one year at the same salary plus any authorized salary increases.~~

(2) During the term of a contract a management employee's salary may be increased, but shall not be reduced unless the reduction is part of a uniform plan affecting all employees of the board.

(B) All management employees may be removed, suspended, or demoted for cause pursuant to section 5126.23 of the Revised Code.

(C) All management employees shall receive employee benefits ~~that shall include sick leave, vacation leave, holiday pay, and such other benefits~~ as are established by the board. Sections 124.38 and 325.19 of the Revised Code do not apply to management employees.

(D) The superintendent of a county board of developmental

disabilities shall notify all management employees of the board of 66039
their salary no later than thirty days before the first day of the 66040
new contract year. 66041

~~(E) All management employees of a county board of 66042
developmental disabilities who were given continuing contract 66043
status prior to the effective date of this section have continuing 66044
contract status so long as they maintain employment with the 66045
board. 66046~~

~~(F) All management employees who were probationary employees 66047
on the effective date of this section shall, upon completion of 66048
their probationary period, be granted continuing contract status 66049
if retained in employment. 66050~~

~~(G) Each county board of developmental disabilities shall 66051
establish a lay-off policy to be followed if it determines a 66052
reduction in the number of management employees is necessary. 66053~~

Sec. 5126.22. (A) Employees who hold the following positions 66054
in a county board of developmental disabilities are management 66055
employees: 66056

assistant superintendent 66057

director of business 66058

director of personnel 66059

adult services director 66060

workshop director 66061

habilitation manager 66062

director of residential services 66063

principal (director of children services) 66064

program or service supervisor 66065

plant manager 66066

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| production manager | 66067 |
| service and support administration supervisor | 66068 |
| investigative agent | 66069 |
| confidential employees as defined in section 4117.01 of the Revised Code | 66070 66071 |
| positions designated by the director of developmental disabilities as having managerial or supervisory responsibilities and duties | 66072 66073 66074 |
| positions designated by the county board in accordance with division (D) of this section. | 66075 66076 |
| (B) Employees who hold the following positions in a board are professional employees: | 66077 66078 |
| personnel <u>licensed or</u> certified pursuant to Chapter 3319. of the Revised Code | 66079 66080 |
| early intervention specialist | 66081 |
| physical development specialist | 66082 |
| habilitation specialist | 66083 |
| work adjustment specialist | 66084 |
| placement specialist | 66085 |
| vocational evaluator | 66086 |
| psychologist | 66087 |
| occupational therapist | 66088 |
| speech and language pathologist | 66089 |
| recreation specialist | 66090 |
| behavior management specialist | 66091 |
| physical therapist | 66092 |
| supportive home services specialist | 66093 |

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|--|----------------------------------|
| licensed practical nurse or registered nurse | 66094 |
| rehabilitation counselor | 66095 |
| doctor of medicine and surgery or of osteopathic medicine and surgery | 66096 66097 |
| dentist | 66098 |
| service and support administrator | 66099 |
| conditional status service and support administrator | 66100 |
| social worker | 66101 |
| 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 | 66102 66103 66104 66105 |
| professional positions designated by the director | 66106 |
| professional positions designated by the county board in accordance with division (D) of this section. | 66107 66108 |
| (C) Employees who hold positions in a board that are neither management positions nor professional positions are service employees. Service employee positions include: | 66109 66110 66111 |
| workshop specialist | 66112 |
| workshop specialist assistant | 66113 |
| contract procurement specialist | 66114 |
| community employment specialist | 66115 |
| any assistant to a professional employee certified to provide, or supervise the provision of, adult services or service and support administration | 66116 66117 66118 |
| service positions designated by the director | 66119 |
| service positions designated by a county board in accordance with division (D) of this section. | 66120 66121 |

(D) A county board may designate a position only if the 66122
position does not include directly providing, or supervising 66123
employees who directly provide, service or instruction to 66124
individuals with mental retardation or developmental disabilities. 66125

(E) If a county board desires to have a position established 66126
that is not specifically listed in this section that includes 66127
directly providing, or supervising employees who directly provide, 66128
services or instruction to individuals with mental retardation or 66129
developmental disabilities, the board shall submit to the director 66130
a written description of the position and request that the 66131
director designate the position as a management, professional, or 66132
service position under this section. The director shall consider 66133
each request submitted under this division and respond within 66134
thirty days. If the director approves the request, the director 66135
shall designate the position as a management, professional, or 66136
service position. 66137

(F) A county board shall not terminate its employment of any 66138
management, professional, or service employee solely because a 66139
position is added to or eliminated from those positions listed in 66140
this section or because a position is designated or no longer 66141
designated by the director or a county board. 66142

Sec. 5126.25. (A) The director of developmental disabilities 66143
shall adopt rules ~~in accordance with Chapter 119. of the Revised~~ 66144
~~Code under division (C) of this section~~ establishing uniform 66145
standards and procedures for the certification and registration of 66146
persons ~~for employment by county boards of developmental~~ 66147
~~disabilities as superintendents, management employees, and~~ 66148
~~professional employees and uniform standards and procedures for~~ 66149
~~the registration of persons for employment by county boards as~~ 66150
~~registered service employees. As part of the rules, the director~~ 66151
~~may establish continuing education and professional training~~ 66152

~~requirements for renewal of certificates and evidence of 66153
registration and shall establish such requirements for renewal of 66154
an investigative agent certificate. In the rules, the director 66155
shall establish certification standards for employment in the 66156
position of investigative agent that require an individual to have 66157
or obtain no less than an associate degree from an accredited 66158
college or university or have or obtain comparable experience or 66159
training. The director shall not adopt rules that require any 66160
service employee to have or obtain a bachelor's or higher degree. 66161~~

~~The director shall adopt the rules in a manner that provides 66162
for the issuance of certificates and evidence of registration 66163
according to categories, levels, and grades. The rules shall 66164
describe each category, level, and grade. 66165~~

~~The rules adopted under this division shall apply to persons 66166
employed or seeking employment in a position that includes 66167
directly providing, or supervising persons who directly provide, 66168
services or instruction to or on behalf of individuals with mental 66169
retardation or developmental disabilities, except that the rules 66170
shall not apply to persons who hold a valid license issued under 66171
Chapter 3319. of the Revised Code and perform no duties other than 66172
teaching or supervision of a teaching program or persons who hold 66173
a valid license or certificate issued under Title XLVII of the 66174
Revised Code and perform only those duties governed by the license 66175
or certificate. The rules shall specify the positions that require 66176
certification or registration. The rules shall specify that the 66177
position of investigative agent requires certification, other than 66178
the persons described in division (I) of this section, who are 66179
seeking employment with or are employed by either of the 66180
following: 66181~~

~~(1) A county board of developmental disabilities; 66182~~

~~(2) An entity that contracts with a county board to operate 66183
programs and services for individuals with mental retardation or 66184~~

developmental disabilities. 66185

(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. 66186
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~~(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 implement and administer this section, including rules establishing all of the following:~~ 66193
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(1) Positions of employment that are subject to this section and, for each position, whether a person must receive certification or receive registration to be employed in that position; 66208
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(2) Requirements that must be met to receive the certification or registration required to be employed in a particular position, including standards regarding education, specialized training, and experience, taking into account the needs of individuals with mental retardation or developmental 66212
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disabilities and the specialized techniques needed to serve them, 66217
except that the rules shall not require a person designated as a 66218
service employee under section 5126.22 of the Revised Code to have 66219
or obtain a bachelor's or higher degree; 66220

(3) Procedures to be followed in applying for initial 66221
certification or registration and for renewing the certification 66222
or registration. 66223

(4) Requirements that must be met for renewal of 66224
certification or registration, which may include continuing 66225
education and professional training requirements; 66226

(5) Subject to section 5126.23 of the Revised Code, grounds 66227
for which certification or registration may be denied, suspended, 66228
or revoked and procedures for appealing the denial, suspension, or 66229
revocation. 66230

~~(C)(D) Each applicant for a certificate for employment or~~ 66231
~~evidence of person seeking certification or registration for~~ 66232
~~employment by a county board shall apply to the department of~~ 66233
~~developmental disabilities on forms that the director of the~~ 66234
~~department shall prescribe and provide. The application shall be~~ 66235
~~accompanied by the application fee in the manner established in~~ 66236
~~rules adopted under this section.~~ 66237

~~(D) The director shall issue a certificate for employment to~~ 66238
~~each applicant who meets the standards for certification~~ 66239
~~established under this section and shall issue evidence of~~ 66240
~~registration for employment to each applicant who meets the~~ 66241
~~standards for registration established under this section. Each~~ 66242
~~certificate or evidence of registration shall state the category,~~ 66243
~~level, and grade for which it is issued.~~ 66244

~~The director shall issue, renew, deny, suspend, or revoke~~ 66245
~~certificates and evidence of registration in accordance with rules~~ 66246
~~adopted under this section. The director shall deny, suspend, or~~ 66247

~~revoke a certificate or evidence of registration if the director 66248
finds, pursuant to an adjudication conducted in accordance with 66249
Chapter 119. of the Revised Code, that the applicant for or holder 66250
of the certificate or evidence of registration is guilty of 66251
intemperate, immoral, or other conduct unbecoming to the 66252
applicant's or holder's position, or is guilty of incompetence or 66253
negligence within the scope of the applicant's or holder's duties. 66254
The director shall deny or revoke a certificate or evidence of 66255
registration if the director finds, pursuant to an adjudication 66256
conducted in accordance with Chapter 119. of the Revised Code, 66257
that the applicant for or holder of the certificate or evidence of 66258
registration has been convicted of or pleaded guilty to any of the 66259
offenses described in division (E) of section 5126.28 of the 66260
Revised Code, unless the individual meets standards for 66261
rehabilitation that the director establishes in the rules adopted 66262
under that section. Evidence supporting such allegations shall be 66263
presented to the director in writing and the director shall 66264
provide prompt notice of the allegations to the person who is the 66265
subject of the allegations. A denial, suspension, or revocation 66266
may be appealed in accordance with procedures the director shall 66267
establish in the rules adopted under this section. 66268~~

(E)(1) The superintendent of each county board is responsible 66269
for taking all actions regarding certification and registration of 66270
employees, other than the position of superintendent. For the 66271
position of superintendent, the director of developmental 66272
disabilities is responsible for taking all such actions. 66273

Actions that may be taken under this division include 66274
issuing, renewing, denying, suspending, and revoking certification 66275
and registration. All actions shall be taken in accordance with 66276
the rules adopted under this section. 66277

A person subject to the denial, suspension, or revocation of 66278
certification or registration may appeal the decision. The appeal 66279

shall be made in accordance with the rules adopted under this 66280
section. 66281

~~(F)~~ A person ~~holding a~~ with valid certificate certification 66282
or registration under this section on the effective date of any 66283
rules adopted under this section that increase the standards 66284
applicable to the certification ~~standards or registration~~ shall 66285
have such period as the rules prescribe, but not less than one 66286
year after the effective date of the rules, to meet the new 66287
certification or registration standards. 66288

~~A person who is registered under this section on the~~ 66289
~~effective date of any rule that changes the standards adopted~~ 66290
~~under this section shall have such period as the rules prescribe,~~ 66291
~~but not less than one year, to meet the new registration~~ 66292
~~standards.~~ 66293

~~(2) If an applicant for a certificate for employment has not~~ 66294
~~completed the courses of instruction necessary to meet the~~ 66295
~~department's standards for certification, the department shall~~ 66296
~~inform the applicant of the courses the applicant must~~ 66297
~~successfully complete to meet the standards and shall specify the~~ 66298
~~time within which the applicant must complete the courses. The~~ 66299
~~department shall grant the applicant at least one year to complete~~ 66300
~~the courses and shall not require the applicant to complete more~~ 66301
~~than four courses in any one year. The applicant is not subject to~~ 66302
~~any changes regarding the courses required for certification that~~ 66303
~~are made after the department informs the applicant of the courses~~ 66304
~~the applicant must complete, unless the applicant does not~~ 66305
~~successfully complete the courses within the time specified by the~~ 66306
~~department.~~ 66307

~~(F)~~(G) A person ~~who holds a~~ certificate with valid 66308
certification or ~~evidence of~~ registration, ~~other than one~~ 66309
~~designated as temporary,~~ is qualified to be employed according to 66310
that certificate certification or ~~evidence of~~ registration by any 66311

county board or entity contracting with a county board. 66312

~~(G)~~(H) The director shall monitor county boards to ensure 66313
that their employees ~~who must be certified or registered are~~ 66314
~~appropriately certified or registered and~~ and the employees of 66315
their contracting entities have the applicable certification or 66316
registration required under this section and that the employees 66317
are performing only those functions they are authorized to perform 66318
under ~~their certificate~~ the certification or evidence of 66319
registration. 66320

~~(H)~~ A county board superintendent or the superintendent's 66321
designee may certify to the director that county board employees 66322
who are required to meet continuing education or professional 66323
training requirements as a condition of renewal of certificates or 66324
evidence of registration have met the requirements. The 66325
superintendent of each county board or the superintendent's 66326
designee shall maintain in appropriate personnel files evidence 66327
acceptable to the director that the employees have met the 66328
requirements ~~and permit.~~ On request, representatives of the 66329
department of developmental disabilities shall be given access to 66330
the evidence ~~on request.~~ 66331

(I) ~~All fees collected pursuant to this section shall be~~ 66332
~~deposited in the state treasury to the credit of the program fee~~ 66333
~~fund created under section 5123.033 of the Revised Code.~~ 66334

~~(J)~~ Employees of entities that contract with county boards of 66335
developmental disabilities to operate programs and services for 66336
individuals with mental retardation and developmental disabilities 66337
are subject to the certification and registration requirements 66338
established under section 5123.082 of the Revised Code The 66339
certification and registration requirements of this section and 66340
the rules adopted under it do not apply to either of the 66341
following: 66342

(1) A person who holds a valid license issued or certificate issued under Chapter 3319. of the Revised Code and performs no duties other than teaching or supervision of a teaching program; 66343
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(2) A person who holds a valid license or certificate issued under Title XLVII of the Revised Code and performs only those duties governed by the license or certificate. 66346
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Sec. 5126.251. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the director of developmental disabilities or the superintendent of a county board of developmental disabilities shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to ~~a certificate a person's certification or evidence of registration issued pursuant to this chapter~~ under section 5126.25 of the Revised Code. 66349
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Sec. 5126.51. As used in sections 5126.51 to 5126.62 of the Revised Code: 66358
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(A) "Develop" or "development," in contexts not referring to developmental disabilities, means construction or rehabilitation. 66360
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(B) "Eligible lending institution" means a financial institution that meets all of the following requirements: 66362
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(1) Is eligible to make commercial loans; 66364

(2) Has an office located within the territorial limits of the county; 66365
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(3) Is an institution into which the county's investing authority may deposit the public moneys of the county; 66367
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(4) Holds itself out as participating in the residential facility linked deposit program. 66369
66370

(C) "Eligible organization" means ~~either of the following:~~ 66371

~~(1) A a nonprofit corporation that has as its primary activity the development or operation of a residential facility+~~ 66372
66373

~~(2) A nonprofit corporation certified under section 5123.192 of the Revised Code.~~ 66374
66375

(D) "Investing authority" has the same meaning as in section 135.31 of the Revised Code. 66376
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(E) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code ~~and also includes a residence where a nonprofit corporation certified under section 5123.192 of the Revised Code provides or proposes to provide supported living for individuals with mental retardation or developmental disabilities.~~ 66378
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(F) "Residential facility linked deposit program" means the linked deposit program provided for in sections 5126.51 to 5126.62 of the Revised Code. A "residential facility linked deposit" is a deposit of public moneys of the county under, and for the purposes of, the residential facility linked deposit program. A "residential facility linked deposit loan" is a loan under, and for the purposes of, the residential facility linked deposit program. 66383
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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: 66391
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(A) The line item appropriation for the care and custody of felony delinquents shall provide funding for operational costs for the following: 66398
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66400

(1) Institutions and the diagnosis, care, or treatment of 66401

felony delinquents at facilities pursuant to contracts entered 66402
into under section 5139.08 of the Revised Code; 66403

(2) Community corrections facilities constructed, 66404
reconstructed, improved, or financed as described in section 66405
5139.36 of the Revised Code for the purpose of providing 66406
alternative placement and services for felony delinquents who have 66407
been diverted from care and custody in institutions; 66408

(3) County juvenile courts that administer programs and 66409
services for prevention, early intervention, diversion, treatment, 66410
and rehabilitation services and programs that are provided for 66411
alleged or adjudicated unruly or delinquent children or for 66412
children who are at risk of becoming unruly or delinquent 66413
children; 66414

(4) Administrative expenses the department incurs in 66415
connection with the felony delinquent care and custody programs 66416
described in section 5139.43 of the Revised Code. 66417

(B) From the appropriated line item for the care and custody 66418
of felony delinquents, the department, with the advice of the 66419
RECLAIM advisory committee established under section 5139.44 of 66420
the Revised Code, shall allocate annual operational funds for 66421
county juvenile programs, institutional care and custody, 66422
community corrections facilities care and custody, and 66423
administrative expenses incurred by the department associated with 66424
felony delinquent care and custody programs. The department, with 66425
the advice of the RECLAIM advisory committee, shall adjust these 66426
allocations, when modifications to this line item are made by 66427
legislative or executive action. 66428

(C) The department shall divide county juvenile program 66429
allocations among county juvenile courts that administer programs 66430
and services for prevention, early intervention, diversion, 66431
treatment, and rehabilitation that are provided for alleged or 66432

adjudicated unruly or delinquent children or for children who are 66433
at risk of becoming unruly or delinquent children. The department 66434
shall base funding on the county's previous year's ratio of the 66435
department's institutional and community correctional facilities 66436
commitments to that county's ~~four-year~~ average of felony 66437
adjudications, as specified in the following formula: 66438

(1) The department shall give to each county a proportional 66439
allocation of commitment credits. The proportional allocation of 66440
commitment credits shall be calculated by the following 66441
procedures: 66442

(a) The department shall determine for each county and for 66443
the state a ~~four-year~~ an average of felony adjudications. 66444
Beginning July 1, 2012, the average shall include felony 66445
adjudications for fiscal year 2007 and for each subsequent fiscal 66446
year through fiscal year 2016. Beginning July 1, 2017, the most 66447
recent felony adjudication data shall be included and the oldest 66448
fiscal year data shall be removed so that a ten-year average of 66449
felony adjudication data will be maintained. 66450

(b) The department shall determine for each county and for 66451
the state the number of charged bed days, for both the department 66452
and community correctional facilities, from the previous year. 66453

(c) The department shall divide the statewide total number of 66454
charged bed days by the statewide total number of felony 66455
adjudications, which quotient shall then be multiplied by a factor 66456
determined by the department. 66457

(d) The department shall calculate the county's allocation of 66458
credits by multiplying the number of adjudications for each court 66459
by the result determined pursuant to division (C)(1)(c) of this 66460
section. 66461

(2) The department shall subtract from the allocation 66462
determined pursuant to division (C)(1) of this section a credit 66463

for every chargeable bed day a youth stays in a department 66464
institution and two-thirds of credit for every chargeable bed day 66465
a youth stays in a community correctional facility, except for 66466
public safety beds. At the end of the year, the department shall 66467
divide the amount of remaining credits of that county's allocation 66468
by the total number of remaining credits to all counties, to 66469
determine the county's percentage, which shall then be applied to 66470
the total county allocation to determine the county's payment for 66471
the fiscal year. 66472

(3) The department shall pay counties three times during the 66473
fiscal year to allow for credit reporting and audit adjustments, 66474
and modifications to the appropriated line item for the care and 66475
custody of felony delinquents, as described in this section. The 66476
department shall pay fifty per cent of the payment by the 66477
fifteenth of July of each fiscal year, twenty-five per cent by the 66478
fifteenth of January of that fiscal year, and twenty-five per cent 66479
of the payment by the fifteenth of June of that fiscal year. 66480

~~(D) In fiscal year 2004, the payment of county juvenile 66481
programs shall be based on the following procedure:~~ 66482

~~(1) The department shall divide the funding earned by each 66483
court in fiscal year 2003 by the aggregate funding of all courts,
resulting in a percentage. 66484
66485~~

~~(2) The department shall apply the percentage determined 66486
under division (D)(1) of this section to the total county juvenile 66487
program allocation for fiscal year 2004 to determine each court's 66488
total payment. 66489~~

~~(3) The department shall make payments in accordance with the 66490
schedule established in division (C)(3) of this section. 66491~~

Sec. 5139.43. (A) The department of youth services shall 66492
operate a felony delinquent care and custody program that shall be 66493

operated in accordance with the formula developed pursuant to 66494
section 5139.41 of the Revised Code, subject to the conditions 66495
specified in this section. 66496

(B)(1) Each juvenile court shall use the moneys disbursed to 66497
it by the department of youth services pursuant to division (B) of 66498
section 5139.41 of the Revised Code in accordance with the 66499
applicable provisions of division (B)(2) of this section and shall 66500
transmit the moneys to the county treasurer for deposit in 66501
accordance with this division. The county treasurer shall create 66502
in the county treasury a fund that shall be known as the felony 66503
delinquent care and custody fund and shall deposit in that fund 66504
the moneys disbursed to the juvenile court pursuant to division 66505
(B) of section 5139.41 of the Revised Code. The county treasurer 66506
also shall deposit into that fund the state subsidy funds granted 66507
to the county pursuant to section 5139.34 of the Revised Code. The 66508
moneys disbursed to the juvenile court pursuant to division (B) of 66509
section 5139.41 of the Revised Code and deposited pursuant to this 66510
division in the felony delinquent care and custody fund shall not 66511
be commingled with any other county funds except state subsidy 66512
funds granted to the county pursuant to section 5139.34 of the 66513
Revised Code; shall not be used for any capital construction 66514
projects; upon an order of the juvenile court and subject to 66515
appropriation by the board of county commissioners, shall be 66516
disbursed to the juvenile court for use in accordance with the 66517
applicable provisions of division (B)(2) of this section; shall 66518
not revert to the county general fund at the end of any fiscal 66519
year; and shall carry over in the felony delinquent care and 66520
custody fund from the end of any fiscal year to the next fiscal 66521
year. The maximum balance carry-over at the end of each respective 66522
fiscal year in the felony delinquent care and custody fund in any 66523
county from funds allocated to the county pursuant to sections 66524
5139.34 and 5139.41 of the Revised Code in the previous fiscal 66525
year shall not exceed an amount to be calculated as provided in 66526

the formula set forth in this division, unless that county has 66527
applied for and been granted an exemption by the director of youth 66528
services. Beginning June 30, 2008, the maximum balance carry-over 66529
at the end of each respective fiscal year shall be determined by 66530
the following formula: for fiscal year 2008, the maximum balance 66531
carry-over shall be one hundred per cent of the allocation for 66532
fiscal year 2007, to be applied in determining the fiscal year 66533
2009 allocation; for fiscal year 2009, it shall be fifty per cent 66534
of the allocation for fiscal year 2008, to be applied in 66535
determining the fiscal year 2010 allocation; for fiscal year 2010, 66536
it shall be twenty-five per cent of the allocation for fiscal year 66537
2009, to be applied in determining the fiscal year 2011 66538
allocation; and for each fiscal year subsequent to fiscal year 66539
2010, it shall be twenty-five per cent of the allocation for the 66540
immediately preceding fiscal year, to be applied in determining 66541
the allocation for the next immediate fiscal year. The department 66542
shall withhold from future payments to a county an amount equal to 66543
any moneys in the felony delinquent care and custody fund of the 66544
county that exceed the total maximum balance carry-over that 66545
applies for that county for the fiscal year in which the payments 66546
are being made and shall reallocate the withheld amount. The 66547
department shall adopt rules for the withholding and reallocation 66548
of moneys disbursed under sections 5139.34 and 5139.41 of the 66549
Revised Code and for the criteria and process for a county to 66550
obtain an exemption from the withholding requirement. The moneys 66551
disbursed to the juvenile court pursuant to division (B) of 66552
section 5139.41 of the Revised Code and deposited pursuant to this 66553
division in the felony delinquent care and custody fund shall be 66554
in addition to, and shall not be used to reduce, any usual annual 66555
increase in county funding that the juvenile court is eligible to 66556
receive or the current level of county funding of the juvenile 66557
court and of any programs or services for delinquent children, 66558
unruly children, or juvenile traffic offenders. 66559

(2)(a) A county and the juvenile court that serves the county 66560
shall use the moneys in its felony delinquent care and custody 66561
fund in accordance with rules that the department of youth 66562
services adopts pursuant to division (D) of section 5139.04 of the 66563
Revised Code and as follows: 66564

(i) The moneys in the fund that represent state subsidy funds 66565
granted to the county pursuant to section 5139.34 of the Revised 66566
Code shall be used to aid in the support of prevention, early 66567
intervention, diversion, treatment, and rehabilitation programs 66568
that are provided for alleged or adjudicated unruly children or 66569
delinquent children or for children who are at risk of becoming 66570
unruly children or delinquent children. The county shall not use 66571
for capital improvements more than fifteen per cent of the moneys 66572
in the fund that represent the applicable annual grant of those 66573
state subsidy funds. 66574

(ii) The moneys in the fund that were disbursed to the 66575
juvenile court pursuant to division (B) of section 5139.41 of the 66576
Revised Code and deposited pursuant to division (B)(1) of this 66577
section in the fund shall be used to provide programs and services 66578
for the training, treatment, or rehabilitation of felony 66579
delinquents that are alternatives to their commitment to the 66580
department, including, but not limited to, community residential 66581
programs, day treatment centers, services within the home, and 66582
electronic monitoring, and shall be used in connection with 66583
training, treatment, rehabilitation, early intervention, or other 66584
programs or services for any delinquent child, unruly child, or 66585
juvenile traffic offender who is under the jurisdiction of the 66586
juvenile court. 66587

The fund also may be used for prevention, early intervention, 66588
diversion, treatment, and rehabilitation programs that are 66589
provided for alleged or adjudicated unruly children, delinquent 66590
children, or juvenile traffic offenders or for children who are at 66591

risk of becoming unruly children, delinquent children, or juvenile traffic offenders. Consistent with division (B)(1) of this section, a county and the juvenile court of a county shall not use any of those moneys for capital construction projects.

(iii) Moneys in the fund shall not be used to support programs or services that do not comply with federal juvenile justice and delinquency prevention core requirements or to support programs or services that research has shown to be ineffective. ~~Moneys in the fund shall be prioritized to research-supported~~ Research-supported, outcome-based programs and services, to the extent they are available, shall be encouraged.

(iv) The county and the juvenile court that serves the county may use moneys in the fund to provide out-of-home placement of children only in detention centers, community rehabilitation centers, or community corrections facilities approved by the department pursuant to standards adopted by the department, licensed by an authorized state agency, or accredited by the American correctional association or another national organization recognized by the department.

(b) Each juvenile court shall comply with division (B)(3)(d) 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 granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (B)(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year. If the juvenile court fails to file the report required by division (B)(3)(b) of this section

by the thirty-first day of August of any year, the department 66655
shall not disburse any payment of state subsidy funds to which the 66656
county otherwise is entitled pursuant to section 5139.34 of the 66657
Revised Code and shall not disburse pursuant to division (B) of 66658
section 5139.41 of the Revised Code the applicable allocation 66659
until the juvenile court fully complies with division (B)(3)(b) of 66660
this section. 66661

(c) If the department requires the juvenile court to prepare 66662
monthly statistical reports and to submit the reports on forms 66663
provided by the department, the juvenile court shall file those 66664
reports with the department on the forms so provided. If the 66665
juvenile court fails to prepare and submit those monthly 66666
statistical reports within the department's timelines, the 66667
department shall not disburse any payment of state subsidy funds 66668
to which the county otherwise is entitled pursuant to section 66669
5139.34 of the Revised Code and shall not disburse pursuant to 66670
division (B) of section 5139.41 of the Revised Code the applicable 66671
allocation until the juvenile court fully complies with division 66672
(B)(3)(c) of this section. If the juvenile court fails to prepare 66673
and submit those monthly statistical reports within one hundred 66674
eighty days of the date the department establishes for their 66675
submission, the department shall not disburse any payment of state 66676
subsidy funds to which the county otherwise is entitled pursuant 66677
to section 5139.34 of the Revised Code and shall not disburse 66678
pursuant to division (B) of section 5139.41 of the Revised Code 66679
the applicable allocation, and the state subsidy funds and the 66680
remainder of the applicable allocation shall revert to the 66681
department. If a juvenile court states in a monthly statistical 66682
report that the juvenile court adjudicated within a state fiscal 66683
year five hundred or more children to be delinquent children for 66684
committing acts that would be felonies if committed by adults and 66685
if the department determines that the data in the report may be 66686
inaccurate, the juvenile court shall have an independent auditor 66687

or other qualified entity certify the accuracy of the data on a 66688
date determined by the department. 66689

(d) If the department requires the juvenile court and the 66690
county to participate in a fiscal monitoring program or another 66691
monitoring program that is conducted by the department to ensure 66692
compliance by the juvenile court and the county with division (B) 66693
of this section, the juvenile court and the county shall 66694
participate in the program and fully comply with any guidelines 66695
for the performance of audits adopted by the department pursuant 66696
to that program and all requests made by the department pursuant 66697
to that program for information necessary to reconcile fiscal 66698
accounting. If an audit that is performed pursuant to a fiscal 66699
monitoring program or another monitoring program described in this 66700
division determines that the juvenile court or the county used 66701
moneys in the county's felony delinquent care and custody fund for 66702
expenses that are not authorized under division (B) of this 66703
section, within forty-five days after the department notifies the 66704
county of the unauthorized expenditures, the county either shall 66705
repay the amount of the unauthorized expenditures from the county 66706
general revenue fund to the state's general revenue fund or shall 66707
file a written appeal with the department. If an appeal is timely 66708
filed, the director of the department shall render a decision on 66709
the appeal and shall notify the appellant county or its juvenile 66710
court of that decision within forty-five days after the date that 66711
the appeal is filed. If the director denies an appeal, the 66712
county's fiscal agent shall repay the amount of the unauthorized 66713
expenditures from the county general revenue fund to the state's 66714
general revenue fund within thirty days after receiving the 66715
director's notification of the appeal decision. 66716

(C) The determination of which county a reduction of the care 66717
and custody allocation will be charged against for a particular 66718
youth shall be made as outlined below for all youths who do not 66719

qualify as public safety beds. The determination of which county a 66720
reduction of the care and custody allocation will be charged 66721
against shall be made as follows until each youth is released: 66722

(1) In the event of a commitment, the reduction shall be 66723
charged against the committing county. 66724

(2) In the event of a recommitment, the reduction shall be 66725
charged against the original committing county until the 66726
expiration of the minimum period of institutionalization under the 66727
original order of commitment or until the date on which the youth 66728
is admitted to the department of youth services pursuant to the 66729
order of recommitment, whichever is later. Reductions of the 66730
allocation shall be charged against the county that recommitted 66731
the youth after the minimum expiration date of the original 66732
commitment. 66733

(3) In the event of a revocation of a release on parole, the 66734
reduction shall be charged against the county that revokes the 66735
youth's parole. 66736

(D) A juvenile court is not precluded by its allocation 66737
amount for the care and custody of felony delinquents from 66738
committing a felony delinquent to the department of youth services 66739
for care and custody in an institution or a community corrections 66740
facility when the juvenile court determines that the commitment is 66741
appropriate. 66742

Sec. 5139.511. Before a youth is released from a secure 66743
facility under the control of the department of youth services, 66744
the department of youth services shall attempt to verify the 66745
youth's identification and social security number. If the 66746
department is able to verify the youth's identity with a verified 66747
birth certificate and social security number, the department shall 66748
issue an identification card that the youth may present to the 66749
registrar or deputy registrar of motor vehicles. If the department 66750

is not able to verify the youth's identity with both a verified 66751
birth certificate and social security number, the youth shall not 66752
receive an identification card under this section. 66753

Sec. 5149.311. (A) The department of rehabilitation and 66754
correction shall establish and administer the probation 66755
improvement grant and the probation incentive grant for ~~court of~~ 66756
~~common pleas~~ probation departments that supervise ~~felony~~ offenders 66757
sentenced by courts of common pleas or municipal courts. 66758

(B)(1) The probation improvement grant shall provide funding 66759
to court ~~of common pleas~~ probation departments to adopt policies 66760
and practices based on the latest research on how to reduce the 66761
number of ~~felony~~ offenders on probation supervision who violate 66762
the conditions of their supervision. 66763

(2) The department shall adopt rules for the distribution of 66764
the probation improvement grant, including the formula for the 66765
allocation of the subsidy based on the number of ~~felony~~ offenders 66766
placed on probation annually in each jurisdiction. 66767

(C)(1) The probation incentive grant shall provide a 66768
performance-based level of funding to court ~~of common pleas~~ 66769
probation departments that are successful in reducing the number 66770
of felony offenders on probation supervision whose terms of 66771
supervision are revoked. 66772

(2) The department shall calculate annually any cost savings 66773
realized by the state from a reduction in the percentage of people 66774
who are incarcerated because their terms of supervised probation 66775
were revoked. The cost savings estimate shall be calculated for 66776
each ~~county~~ jurisdiction served by the probation department 66777
eligible for a grant under this section and be based on the 66778
difference from fiscal year 2010 and the fiscal year under 66779
examination. 66780

(3) The department shall adopt rules that specify the subsidy amount to be appropriated to court ~~of common pleas~~ probation departments that successfully reduce the percentage of people on probation who are incarcerated because their terms of supervision are revoked.

(D) The following stipulations apply to both the probation improvement grant and the probation incentive grant:

(1) In order to be eligible for the probation improvement grant and the probation incentive grant, courts of common pleas must satisfy all requirements under sections 2301.27 and 2301.30 of the Revised Code ~~and, except.~~ Except for sentencing decisions made by a court when use of the risk assessment tool is discretionary, in order to be eligible for the probation improvement grant and the probation incentive grant, a court must utilize the single validated risk assessment tool selected by the department of rehabilitation and correction under section 5120.114 of the Revised Code.

(2) The department may deny a subsidy under this section to any applicant if the applicant fails to comply with the terms of any agreement entered into pursuant to any of the provisions of this section.

(3) The department shall evaluate or provide for the evaluation of the policies, practices, and programs the court ~~of common pleas~~ probation departments utilize with the programs of subsidies established under this section and establish means of measuring their effectiveness.

(4) The department shall specify the policies, practices, and programs for which court ~~of common pleas~~ probation departments may use the program subsidy and shall establish minimum standards of quality and efficiency that recipients of the subsidy must follow. The department shall give priority to supporting evidence-based

policies and practices, as defined by the department. 66812

Sec. 5153.18. (A) The public children services agency shall 66813
have the capacity possessed by natural persons to institute 66814
proceedings in any court and shall have a substantial right, as 66815
defined in section 2505.02 of the Revised Code, in protecting 66816
children alleged to be abused, neglected, or dependent children 66817
and in achieving permanency for a child committed to the agency's 66818
custody in any proceeding in a court of appeals. 66819

(B) When appointed by the probate court exercising 66820
jurisdiction in adoption proceedings, the executive director may 66821
act as next friend of any child and perform the duties of such 66822
next friend. 66823

(C) When appointed by the probate court, in lieu of a 66824
guardian, in accordance with section 2111.05 of the Revised Code: 66825

(1) The executive director may act as trustee of the estate 66826
of any ward, provided such an estate does not exceed one thousand 66827
dollars in value. 66828

(2) The executive director may also act as trustee, on behalf 66829
of any ward, of periodic payments of not more than twenty-five 66830
dollars per week of which such ward is entitled as a claimant 66831
pursuant to the terms of any insurance policy, annuity, pension, 66832
benefit, or allowance, governmental or private. 66833

(3) Such director shall administer all trusteeships in 66834
accordance with the laws relating to fiduciaries. 66835

The funds of any such trusteeship shall not be mingled with 66836
other moneys of the agency or of the county. The cost of any such 66837
trusteeship shall be paid out of the funds of the trust, but no 66838
fee shall be allowed to the executive director as such trustee. At 66839
least once a year, or more often if required by the probate court, 66840
the executive director shall make a complete report and accounting 66841

to the agency as to the disposition of all trust funds 66842
administered by the executive director during the year. 66843

Sec. 5155.14. At the request of the superintendent or 66844
administrator of the county home, the board of county 66845
commissioners or operator shall set apart from the county home 66846
fund, a reserve fund not to exceed ~~four hundred~~ five thousand 66847
dollars at any time, which, upon the order of the board or 66848
operator shall be paid to the superintendent or administrator and 66849
expended as needed for emergency supplies and expenses. The 66850
superintendent or administrator shall keep an accurate account of 66851
the reserve fund, in a book to be provided at the expense of the 66852
county for that purpose, and all expenditures from it shall be 66853
audited by the board or operator. The county home fund shall be 66854
reimbursed by the superintendent or administrator, in full, for 66855
any items expended by the superintendent or administrator from the 66856
reserve fund, which items are not allowed by the board or 66857
operator. When, and as often as such amount is entirely disbursed, 66858
on the order of the board or operator, the county auditor shall 66859
pay to the superintendent or administrator the amount so 66860
appropriated. 66861

Sec. 5501.04. ~~The following divisions are hereby established 66862
in the department of transportation:~~ 66863

~~(A) The division of business services;~~ 66864

~~(B) The division of engineering policy;~~ 66865

~~(C) The division of finance;~~ 66866

~~(D) The division of human resources;~~ 66867

~~(E) The division of information technology;~~ 66868

~~(F) The division of multi-modal planning and programs;~~ 66869

~~(G) The division of project management;~~ 66870

~~(H) The division of equal opportunity.~~ 66871

~~The Pursuant to section 5501.02 of the Revised Code, the~~ 66872
director of transportation shall distribute the duties, powers, 66873
and functions of the department among the divisions of the 66874
department. 66875

Each division shall be headed by a deputy director, whose 66876
title shall be designated by the director, and shall include those 66877
other officers and employees as may be necessary to carry out the 66878
work of the division. ~~The director shall appoint the~~ Each deputy 66879
director of each division, ~~who~~ shall be in the unclassified civil 66880
service of the state and shall serve at the pleasure of the 66881
director. ~~The director shall supervise the work of each division~~ 66882
~~and~~ shall be responsible for the determination of general policies 66883
in the performance of the duties, powers, and functions of the 66884
department and of each division. The director shall have complete 66885
executive charge of the department, shall be responsible for the 66886
organization, direction, and supervision of the work of the 66887
department and the performance of the duties, powers, and 66888
functions assigned to each division, and may establish necessary 66889
administrative units therein. ~~The~~ Each deputy director of each 66890
division, with the approval of the director and subject to Chapter 66891
124. of the Revised Code, shall appoint the necessary employees of 66892
the division and may remove such employees for cause. 66893

~~The division of equal opportunity shall ensure that minority~~ 66894
~~groups and all groups protected by state and federal civil rights~~ 66895
~~laws are afforded equal opportunity to be recruited, trained, and~~ 66896
~~work in the employment of or on projects of the department of~~ 66897
~~transportation, and to participate in contracts awarded by the~~ 66898
~~department. The director of transportation each year shall report~~ 66899
~~to the governor and the general assembly on the division's~~ 66900
~~activities and accomplishments.~~ 66901

Sec. 5501.07. In addition to those duties, powers, and 66902
functions the director of transportation assigns to it, the office 66903
of ~~public transportation of the division of multi-modal planning~~ 66904
~~and programs~~ transit: 66905

(A) May issue grants from any public transportation grant 66906
appropriation to county transit boards, regional transit 66907
authorities, regional transit commissions, counties, municipal 66908
corporations, and private nonprofit organizations that operate or 66909
will operate a public transportation system. 66910

The director shall establish criteria for the distribution of 66911
such grants. These criteria may include and the director may 66912
consider each of the following: 66913

(1) The degree to which comprehensive regional transportation 66914
planning goals may be attained through a program for which a grant 66915
will be used; 66916

(2) The amount of local financial or other support of public 66917
transportation operations and facilities affected by the program; 66918

(3) The levels of existing service and fare; 66919

(4) The degree to which the proposed plan demonstrates 66920
approaches of potential value to other local transit boards, 66921
authorities, commissions, counties, municipal corporations, and 66922
private nonprofit organizations operating public transportation 66923
systems; 66924

(5) The degree to which the grant applicant will use state 66925
and local funds to match a federal grant; 66926

(6) Such other factors as the director determines. 66927

Any criteria established by the director for the distribution 66928
of such grants shall be consistent with the requirements of the 66929
United States department of transportation, or any administration 66930
in the department, including, but not limited to, the federal 66931

transit administration. The director may designate in the criteria 66932
certain dates after which applications for specified portions of 66933
the appropriations made for this purpose will not be accepted. 66934

(B) May issue grants from any elderly and handicapped transit 66935
fare assistance grant appropriation to county transit boards, 66936
regional transit authorities, regional transit commissions, 66937
counties, municipal corporations, and private nonprofit 66938
organizations that operate or will operate public transportation 66939
systems for the purpose of reducing the transit or paratransit 66940
fares of elderly or handicapped persons. The director shall 66941
establish criteria for the distribution of such grants. 66942

(C) May administer provisions of federal public 66943
transportation acts or programs applicable within the state, 66944
pursuant to an agreement entered into by the director with an 66945
appropriate official of the federal agency responsible for 66946
implementation of the federal acts or programs. The federal acts 66947
or programs shall include, but are not limited to, programs 66948
authorized under the "Act of July 5, 1994," 108 Stat. 785, 49 66949
U.S.C.A. 5301, as amended. 66950

(D) Shall furnish, upon request and within the limits of 66951
appropriated funds, guidance in technical or policy matters to a 66952
county transit board, regional transit authority, regional transit 66953
commission, county, municipal corporation, or private nonprofit 66954
organization that operates or proposes to operate a public 66955
transportation system, and provide assistance and liaison in the 66956
preparation and submission of applications for federal and state 66957
funds; 66958

(E) May apply for and accept grants or loans from any federal 66959
agency for the purpose of providing for the development or 66960
improvement of public transportation facilities or for the 66961
coordination of any activities related to the development or 66962
improvement of such facilities, and may provide any consideration 66963

from any public transportation grant appropriation and enter into 66964
any contracts that may be required in order to obtain such grants 66965
or loans from a federal agency. 66966

Sec. 5502.01. (A) The department of public safety shall 66967
administer and enforce the laws relating to the registration, 66968
licensing, sale, and operation of motor vehicles and the laws 66969
pertaining to the licensing of drivers of motor vehicles. 66970

The department shall compile, analyze, and publish statistics 66971
relative to motor vehicle accidents and the causes of them, 66972
prepare and conduct educational programs for the purpose of 66973
promoting safety in the operation of motor vehicles on the 66974
highways, and conduct research and studies for the purpose of 66975
promoting safety on the highways of this state. 66976

(B) The department shall administer the laws and rules 66977
relative to trauma and emergency medical services specified in 66978
Chapter 4765. of the Revised Code and any laws and rules relative 66979
to commercial medical transportation services as may be specified 66980
in Chapter 4766. of the Revised Code. 66981

(C) The department shall administer and enforce the laws 66982
contained in Chapters 4301. and 4303. of the Revised Code and 66983
enforce the rules and orders of the liquor control commission 66984
pertaining to retail liquor permit holders. 66985

(D) The department shall administer the laws governing the 66986
state emergency management agency and shall enforce all additional 66987
duties and responsibilities as prescribed in the Revised Code 66988
related to emergency management services. 66989

(E) The department shall conduct investigations pursuant to 66990
Chapter 5101. of the Revised Code in support of the duty of the 66991
department of job and family services to administer the 66992
supplemental nutrition assistance program throughout this state. 66993

The department of public safety shall conduct investigations 66994
necessary to protect the state's property rights and interests in 66995
the supplemental nutrition assistance program. 66996

(F) The department of public safety shall enforce compliance 66997
with orders and rules of the public utilities commission and 66998
applicable laws in accordance with Chapters ~~4919-~~ 4905., 4921., 66999
and 4923. of the Revised Code regarding commercial motor vehicle 67000
transportation safety, economic, and hazardous materials 67001
requirements. 67002

(G) Notwithstanding Chapter 4117. of the Revised Code, the 67003
department of public safety may establish requirements for its 67004
enforcement personnel, including its enforcement agents described 67005
in section 5502.14 of the Revised Code, that include standards of 67006
conduct, work rules and procedures, and criteria for eligibility 67007
as law enforcement personnel. 67008

(H) The department shall administer, maintain, and operate 67009
the Ohio criminal justice network. The Ohio criminal justice 67010
network shall be a computer network that supports state and local 67011
criminal justice activities. The network shall be an electronic 67012
repository for various data, which may include arrest warrants, 67013
notices of persons wanted by law enforcement agencies, criminal 67014
records, prison inmate records, stolen vehicle records, vehicle 67015
operator's licenses, and vehicle registrations and titles. 67016

(I) The department shall coordinate all homeland security 67017
activities of all state agencies and shall be a liaison between 67018
state agencies and local entities for those activities and related 67019
purposes. 67020

(J) Beginning July 1, 2004, the department shall administer 67021
and enforce the laws relative to private investigators and 67022
security service providers specified in Chapter 4749. of the 67023
Revised Code. 67024

(K) The department shall administer criminal justice services 67025
in accordance with sections 5502.61 to 5502.66 of the Revised 67026
Code. 67027

Sec. 5502.011. (A) As used in this section, "department of 67028
public safety" and "department" include all divisions within the 67029
department of public safety. 67030

(B) The director ~~of the department~~ of public safety is the 67031
chief executive and administrative officer of the department. The 67032
director may establish policies governing the department, the 67033
performance of its employees and officers, the conduct of its 67034
business, and the custody, use, and preservation of departmental 67035
records, papers, books, documents, and property. The director also 67036
may authorize and approve investigations to be conducted by any of 67037
the department's divisions. Whenever the Revised Code imposes a 67038
duty upon or requires an action of the department, the director 67039
may perform the action or duty in the name of the department or 67040
direct such performance to be performed by the director's 67041
designee. 67042

(C) In addition to any other duties enumerated in the Revised 67043
Code, the director or the director's designee shall do all of the 67044
following: 67045

(1) Administer and direct the performance of the duties of 67046
the department; 67047

(2) Pursuant to Chapter 119. of the Revised Code, approve, 67048
adopt, and prescribe such forms and rules as are necessary to 67049
carry out the duties of the department; 67050

(3) On behalf of the department and in addition to any 67051
authority the Revised Code otherwise grants to the department, 67052
have the authority and responsibility for approving and entering 67053
into contracts, agreements, and other business arrangements; 67054

- (4) Make appointments for the department as needed to comply with requirements of the Revised Code; 67055
67056
- (5) Approve employment actions of the department, including appointments, promotions, discipline, investigations, and terminations; 67057
67058
67059
- (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; 67060
67061
67062
67063
- (7) Apply for, allocate, disburse, and account for grants made available under federal law or from other federal, state, or private sources; 67064
67065
67066
- (8) Do all other acts necessary or desirable to carry out this chapter. 67067
67068
- (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: 67069
67070
67071
67072
- (a) A check, draft, or money order that is returned or dishonored; 67073
67074
- (b) An automatic bank transfer that is declined, due to insufficient funds or for any other reason; 67075
67076
- (c) Any financial transaction device that is returned or dishonored for any reason. 67077
67078
- (2) The director shall deposit any fee collected under this division in an appropriate fund as determined by the director based on the tax, fee, or fine being paid. 67079
67080
67081
- (3) As used in this division, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code. 67082
67083
- (E) The director shall establish a homeland security advisory 67084

council to advise the director on homeland security, including 67085
homeland security funding efforts. The advisory council shall 67086
include, but not be limited to, state and local government 67087
officials who have homeland security or emergency management 67088
responsibilities and who represent first responders. The director 67089
shall appoint the members of the council, who shall serve without 67090
compensation. 67091

~~(F) The director of public safety shall adopt rules in 67092
accordance with Chapter 119. of the Revised Code as required by 67093
section 2909.28 of the Revised Code and division (A)(1) of section 67094
2909.32 of the Revised Code. The director shall adopt rules as 67095
required by division (D) of section 2909.32 of the Revised Code, 67096
division (E) of section 2909.33 of the Revised Code, and division 67097
(D) of section 2909.34 of the Revised Code. The director may adopt 67098
rules pursuant to division (A)(2) of section 2909.32 of the 67099
Revised Code, division (A)(2) of section 2909.33 of the Revised 67100
Code, and division (A)(2) of section 2909.34 of the Revised Code. 67101~~

Sec. ~~5503.21~~ 5502.05. There is hereby created in the 67102
department of public safety, ~~division of state highway patrol, a 67103
driver's license examination section to be administered by the 67104
superintendent of the state highway patrol.~~ 67105

The ~~superintendent, with the approval of the~~ director of 67106
public safety, may appoint necessary driver's license examiners 67107
and clerical personnel necessary to carry out the duties assigned 67108
under this section. The examiners shall be citizens of the United 67109
States and residents of the state and shall have such additional 67110
qualifications as the ~~superintendent, with the approval of the 67111
director,~~ prescribes. 67112

The salaries and classifications of examiners and personnel 67113
shall be fixed in accordance with section 124.15 or 124.152 of the 67114
Revised Code. 67115

~~Sec. 5503.22~~ 5502.06. Driver's license examiners assigned to 67116
the driver's license examination section shall conduct all 67117
examinations for driver's licenses as required by sections 4507.01 67118
to 4507.36 of the Revised Code, subject to the ~~regulations~~ rules 67119
issued by the registrar of motor vehicles. 67120

~~Sec. 5503.23~~ 5502.07. The ~~superintendent of the state highway~~ 67121
~~patrol, with the approval of the~~ director of public safety, may 67122
conduct training schools for prospective driver's license 67123
examiners. ~~The superintendent~~ and may establish rules governing 67124
the qualifications for admission to such schools and provide for 67125
competitive examinations to determine the fitness of such students 67126
for prospective examiners, not inconsistent with the rules of the 67127
director of administrative services. 67128

~~Sec. 5503.02.~~ (A) The state highway patrol shall enforce the 67129
laws of the state relating to the titling, registration, and 67130
licensing of motor vehicles; enforce on all roads and highways, 67131
notwithstanding section 4513.39 of the Revised Code, the laws 67132
relating to the operation and use of vehicles on the highways; 67133
enforce and prevent the violation of the laws relating to the 67134
size, weight, and speed of commercial motor vehicles and all laws 67135
designed for the protection of the highway pavements and 67136
structures on the highways; investigate and enforce rules and laws 67137
of the public utilities commission governing the transportation of 67138
persons and property by motor carriers and report violations of 67139
such rules and laws to the commission; enforce against any motor 67140
~~transportation company~~ carrier as defined in section ~~4921.02~~ 67141
4923.01 of the Revised Code, ~~any contract carrier by motor vehicle~~ 67142
~~as defined in section 4923.02 of the Revised Code, any private~~ 67143
~~motor carrier as defined in section 4923.20 of the Revised Code,~~ 67144
~~and any motor carrier as defined in section 4919.75 of the Revised~~ 67145

~~Code~~ those rules and laws that, if violated, may result in a 67146
forfeiture as provided in section ~~4905.83, 4919.99, 4921.99, or~~ 67147
4923.99 of the Revised Code; investigate and report violations of 67148
all laws relating to the collection of excise taxes on motor 67149
vehicle fuels; and regulate the movement of traffic on the roads 67150
and highways of the state, notwithstanding section 4513.39 of the 67151
Revised Code. 67152

The patrol, whenever possible, shall determine the identity 67153
of the persons who are causing or who are responsible for the 67154
breaking, damaging, or destruction of any improved surfaced 67155
roadway, structure, sign, marker, guardrail, or other appurtenance 67156
constructed or maintained by the department of transportation and 67157
shall arrest the persons who are responsible for the breaking, 67158
damaging, or destruction and bring them before the proper 67159
officials for prosecution. 67160

State highway patrol troopers shall investigate and report 67161
all motor vehicle accidents on all roads and highways outside of 67162
municipal corporations. The superintendent of the patrol or any 67163
state highway patrol trooper may arrest, without a warrant, any 67164
person, who is the driver of or a passenger in any vehicle 67165
operated or standing on a state highway, whom the superintendent 67166
or trooper has reasonable cause to believe is guilty of a felony, 67167
under the same circumstances and with the same power that any 67168
peace officer may make such an arrest. 67169

The superintendent or any state highway patrol trooper may 67170
enforce the criminal laws on all state properties and state 67171
institutions, owned or leased by the state, and, when so ordered 67172
by the governor in the event of riot, civil disorder, or 67173
insurrection, may, pursuant to sections 2935.03 to 2935.05 of the 67174
Revised Code, arrest offenders against the criminal laws wherever 67175
they may be found within the state if the violations occurred 67176
upon, or resulted in injury to person or property on, state 67177

properties or state institutions, or under the conditions 67178
described in division (B) of this section. This authority of the 67179
superintendent and any state highway patrol trooper to enforce the 67180
criminal laws shall extend to any prison that houses state of Ohio 67181
inmates within the boundaries of this state and that is being 67182
operated pursuant to an agreement with the department of 67183
rehabilitation and correction pursuant to section 9.06 of the 67184
Revised Code, to the same extent as if the prison were owned by 67185
this state. 67186

(B) In the event of riot, civil disorder, or insurrection, or 67187
the reasonable threat of riot, civil disorder, or insurrection, 67188
and upon request, as provided in this section, of the sheriff of a 67189
county or the mayor or other chief executive of a municipal 67190
corporation, the governor may order the state highway patrol to 67191
enforce the criminal laws within the area threatened by riot, 67192
civil disorder, or insurrection, as designated by the governor, 67193
upon finding that law enforcement agencies within the counties 67194
involved will not be reasonably capable of controlling the riot, 67195
civil disorder, or insurrection and that additional assistance is 67196
necessary. In cities in which the sheriff is under contract to 67197
provide exclusive police services pursuant to section 311.29 of 67198
the Revised Code, in villages, and in the unincorporated areas of 67199
the county, the sheriff has exclusive authority to request the use 67200
of the patrol. In cities in which the sheriff does not exclusively 67201
provide police services, the mayor, or other chief executive 67202
performing the duties of mayor, has exclusive authority to request 67203
the use of the patrol. 67204

The superintendent or any state highway patrol trooper may 67205
enforce the criminal laws within the area designated by the 67206
governor during the emergency arising out of the riot, civil 67207
disorder, or insurrection until released by the governor upon 67208
consultation with the requesting authority. State highway patrol 67209

troopers shall never be used as peace officers in connection with 67210
any strike or labor dispute. 67211

When a request for the use of the patrol is made pursuant to 67212
this division, the requesting authority shall notify the law 67213
enforcement authorities in contiguous communities and the sheriff 67214
of each county within which the threatened area, or any part of 67215
the threatened area, lies of the request, but the failure to 67216
notify the authorities or a sheriff shall not affect the validity 67217
of the request. 67218

(C) Any person who is arrested by the superintendent or a 67219
state highway patrol trooper shall be taken before any court or 67220
magistrate having jurisdiction of the offense with which the 67221
person is charged. Any person who is arrested or apprehended 67222
within the limits of a municipal corporation shall be brought 67223
before the municipal court or other tribunal of the municipal 67224
corporation. 67225

(D)(1) State highway patrol troopers have the same right and 67226
power of search and seizure as other peace officers. 67227

No state official shall command, order, or direct any state 67228
highway patrol trooper to perform any duty or service that is not 67229
authorized by law. The powers and duties conferred on the patrol 67230
are supplementary to, and in no way a limitation on, the powers 67231
and duties of sheriffs or other peace officers of the state. 67232

(2)(a) A state highway patrol trooper, pursuant to the policy 67233
established by the superintendent of the state highway patrol 67234
under division (D)(2)(b) of this section, may render emergency 67235
assistance to any other peace officer who has arrest authority 67236
under section 2935.03 of the Revised Code, if both of the 67237
following apply: 67238

(i) There is a threat of imminent physical danger to the 67239
peace officer, a threat of physical harm to another person, or any 67240

other serious emergency situation; 67241

(ii) Either the peace officer requests emergency assistance, 67242
or it appears that the peace officer is unable to request 67243
emergency assistance and the circumstances observed by the state 67244
highway patrol trooper reasonably indicate that emergency 67245
assistance is appropriate, or the peace officer requests emergency 67246
assistance and in the request the peace officer specifies a 67247
particular location and the state highway patrol trooper arrives 67248
at that location prior to the time that the peace officer arrives 67249
at that location and the circumstances observed by the state 67250
highway patrol trooper reasonably indicate that emergency 67251
assistance is appropriate. 67252

(b) The superintendent of the state highway patrol shall 67253
establish, within sixty days of August 8, 1991, a policy that sets 67254
forth the manner and procedures by which a state highway patrol 67255
trooper may render emergency assistance to any other peace officer 67256
under division (D)(2)(a) of this section. The policy shall include 67257
a provision that a state highway patrol trooper never be used as a 67258
peace officer in connection with any strike or labor dispute. 67259

(3)(a) A state highway patrol trooper who renders emergency 67260
assistance to any other peace officer under the policy established 67261
by the superintendent pursuant to division (D)(2)(b) of this 67262
section shall be considered to be performing regular employment 67263
for the purposes of compensation, pension, indemnity fund rights, 67264
workers' compensation, and other rights or benefits to which the 67265
trooper may be entitled as incident to regular employment. 67266

(b) A state highway patrol trooper who renders emergency 67267
assistance to any other peace officer under the policy established 67268
by the superintendent pursuant to division (D)(2)(b) of this 67269
section retains personal immunity from liability as specified in 67270
section 9.86 of the Revised Code. 67271

(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.

(2) To carry out the security responsibilities of the patrol listed in division (E)(1) of this section, the superintendent may assign state highway patrol troopers to a separate unit that is responsible for security details. The number of troopers assigned to particular security details shall be determined by the superintendent.

(3) The superintendent and any state highway patrol trooper, when providing security pursuant to division (E)(1)(a) or (b) of this section, have the same arrest powers as other peace officers to apprehend offenders against the criminal laws who endanger or threaten the security of any person being protected, no matter

where the offense occurs. 67303

The superintendent, any state highway patrol trooper, and any 67304
special police officer designated under section 5503.09 of the 67305
Revised Code, when providing security pursuant to division 67306
(E)(1)(c) of this section, shall enforce any rules governing 67307
capitol square adopted by the capitol square review and advisory 67308
board. 67309

(F) The governor may order the state highway patrol to 67310
undertake major criminal investigations that involve state 67311
property interests. If an investigation undertaken pursuant to 67312
this division results in either the issuance of a no bill or the 67313
filing of an indictment, the superintendent shall file a complete 67314
and accurate report of the investigation with the president of the 67315
senate, the speaker of the house of representatives, the minority 67316
leader of the senate, and the minority leader of the house of 67317
representatives within fifteen days after the issuance of the no 67318
bill or the filing of an indictment. If the investigation does not 67319
have as its result any prosecutorial action, the superintendent 67320
shall, upon reporting this fact to the governor, file a complete 67321
and accurate report of the investigation with the president of the 67322
senate, the speaker of the house of representatives, the minority 67323
leader of the senate, and the minority leader of the house of 67324
representatives. 67325

(G) The superintendent may purchase or lease real property 67326
and buildings needed by the patrol, negotiate the sale of real 67327
property owned by the patrol, rent or lease real property owned or 67328
leased by the patrol, and make or cause to be made repairs to all 67329
property owned or under the control of the patrol. Any instrument 67330
by which real property is acquired pursuant to this division shall 67331
identify the agency of the state that has the use and benefit of 67332
the real property as specified in section 5301.012 of the Revised 67333
Code. 67334

Sections 123.01 and 125.02 of the Revised Code do not limit 67335
the powers granted to the superintendent by this division. 67336

Sec. 5503.04. Forty-five per cent of the fines collected from 67337
or moneys arising from bail forfeited by persons apprehended or 67338
arrested by state highway patrol troopers shall be paid into the 67339
state treasury to be credited to the general revenue fund, five 67340
per cent shall be paid into the state treasury to be credited to 67341
the trauma and emergency medical services ~~grants~~ fund created by 67342
~~division (E)~~ of section 4513.263 of the Revised Code, and fifty 67343
per cent shall be paid into the treasury of the municipal 67344
corporation where the case is prosecuted, if in a mayor's court. 67345
If the prosecution is in a trial court outside a municipal 67346
corporation, or outside the territorial jurisdiction of a 67347
municipal court, the fifty per cent of the fines and moneys that 67348
is not paid into the state treasury shall be paid into the 67349
treasury of the county where the case is prosecuted. The fines and 67350
moneys paid into a county treasury and the fines and moneys paid 67351
into the treasury of a municipal corporation shall be deposited 67352
one-half to the same fund and expended in the same manner as is 67353
the revenue received from the registration of motor vehicles, and 67354
one-half to the general fund of such county or municipal 67355
corporation. 67356

If the prosecution is in a municipal court, forty-five per 67357
cent of the fines and moneys shall be paid into the state treasury 67358
to be credited to the general revenue fund, five per cent shall be 67359
paid into the state treasury to be credited to the trauma and 67360
emergency medical services grants fund created by division (E) of 67361
section 4513.263 of the Revised Code, ten per cent shall be paid 67362
into the county treasury to be credited to the general fund of the 67363
county, and forty per cent shall be paid into the municipal 67364
treasury to be credited to the general fund of the municipal 67365
corporation. In the Auglaize county, Clermont county, Crawford 67366

county, Hocking county, Jackson county, Lawrence county, Madison 67367
county, Miami county, Ottawa county, Portage county, and Wayne 67368
county municipal courts, that portion of money otherwise paid into 67369
the municipal treasury shall be paid into the county treasury. 67370

The trial court shall make remittance of the fines and moneys 67371
as prescribed in this section, and at the same time as the 67372
remittance is made of the state's portion to the state treasury, 67373
the trial court shall notify the superintendent of the state 67374
highway patrol of the case and the amount covered by the 67375
remittance. 67376

This section does not apply to fines for violations of 67377
division (B) of section 4513.263 of the Revised Code, or for 67378
violations of any municipal ordinance that is substantively 67379
comparable to that division, all of which shall be delivered to 67380
the treasurer of state as provided in division (E) of section 67381
4513.263 of the Revised Code. 67382

Sec. 5503.34. There is hereby created in the department of 67383
public safety, division of state highway patrol, a motor carrier 67384
enforcement unit, to be administered by the superintendent of the 67385
state highway patrol. This unit shall be responsible for 67386
enforcement of commercial motor vehicle transportation safety~~7~~ 67387
~~economic~~, and hazardous materials requirements. 67388

The superintendent, with the approval of the director of 67389
public safety, may appoint and maintain necessary staff to carry 67390
out the duties assigned under this section. 67391

Employees of the motor carrier enforcement unit shall 67392
cooperate with the public utilities commission to enforce 67393
compliance with orders and rules of the commission, applicable 67394
laws under Chapters ~~4919~~ 4905., 4921., and 4923. of the Revised 67395
Code, and any other applicable laws or rules. 67396

Uniformed employees of the motor carrier enforcement unit may 67397
stop commercial motor vehicles for the exclusive purpose of 67398
inspecting such vehicles to enforce compliance with orders and 67399
rules of the public utilities commission as required by division 67400
(F) of section 5502.01 of the Revised Code. 67401

Sec. 5701.13. (A) As used in this section: 67402

(1) "Nursing home" means a nursing home or a home for the 67403
aging, as those terms are defined in section 3721.01 of the 67404
Revised Code, that is issued a license pursuant to section 3721.02 67405
of the Revised Code. 67406

(2) "Residential care facility" means a residential care 67407
facility, as defined in section 3721.01 of the Revised Code, that 67408
is issued a license pursuant to section 3721.02 of the Revised 67409
Code. 67410

(3) "~~Adult care~~ Residential facility" means ~~an adult care a~~ 67411
residential facility ~~as defined in licensed under~~ section ~~5119.70~~ 67412
5119.22 of the Revised Code that ~~is issued a license pursuant to~~ 67413
~~section 5119.73 of the Revised Code~~ provides accommodations, 67414
supervision, and personal care services for three to sixteen 67415
unrelated adults. 67416

(B) As used in Title LVII of the Revised Code, and for the 67417
purpose of other sections of the Revised Code that refer 67418
specifically to Chapter 5701. or section 5701.13 of the Revised 67419
Code, a "home for the aged" means either of the following: 67420

(1) A place of residence for aged and infirm persons that 67421
satisfies divisions (B)(1)(a) to (e) of this section: 67422

(a) It is a nursing home, residential care facility, or ~~adult~~ 67423
~~care~~ residential facility. 67424

(b) It is owned by a corporation, unincorporated association, 67425
or trust of a charitable, religious, or fraternal nature, which is 67426

organized and operated not for profit, which is not formed for the 67427
pecuniary gain or profit of, and whose net earnings or any part of 67428
whose net earnings is not distributable to, its members, trustees, 67429
officers, or other private persons, and which is exempt from 67430
federal income taxation under section 501 of the "Internal Revenue 67431
Code of 1986," 100 Stat. 2085, 26 U.S.C. 1. 67432

(c) It is open to the public without regard to race, color, 67433
or national origin. 67434

(d) It does not pay, directly or indirectly, compensation for 67435
services rendered, interest on debts incurred, or purchase price 67436
for land, building, equipment, supplies, or other goods or 67437
chattels, which compensation, interest, or purchase price is 67438
unreasonably high. 67439

(e) It provides services for the life of each resident 67440
without regard to the resident's ability to continue payment for 67441
the full cost of the services. 67442

(2) A place of residence that satisfies divisions (B)(1)(b), 67443
(d), and (e) of this section; that satisfies the definition of 67444
"nursing home" or "residential care facility" under section 67445
3721.01 of the Revised Code or the definition of "~~adult care~~ 67446
residential facility" under ~~section 5119.70 of the Revised Code~~ 67447
division (A)(3) of this section regardless of whether it is 67448
licensed as such a home or facility; and that is provided at no 67449
charge to individuals on account of their service without 67450
compensation to a charitable, religious, fraternal, or educational 67451
institution, which individuals are aged or infirm and are members 67452
of the corporation, association, or trust that owns the place of 67453
residence. For the purposes of division (B)(2) of this section, 67454
"compensation" does not include furnishing room and board, 67455
clothing, health care, or other necessities, or stipends or other 67456
de minimis payments to defray the cost thereof. 67457

Exemption from taxation shall be accorded, on proper 67458
application, only to those homes or parts of homes which meet the 67459
standards and provide the services specified in this section. 67460

Nothing in this section shall be construed as preventing a 67461
home from requiring a resident with financial need to apply for 67462
any applicable financial assistance or requiring a home to retain 67463
a resident who willfully refuses to pay for services for which the 67464
resident has contracted even though the resident has sufficient 67465
resources to do so. 67466

(C)(1) If a corporation, unincorporated association, or trust 67467
described in division (B)(1)(b) of this section is granted a 67468
certificate of need pursuant to section 3702.52 of the Revised 67469
Code to construct, add to, or otherwise modify a nursing home, or 67470
is given approval pursuant to section 3791.04 of the Revised Code 67471
to construct, add to, or otherwise modify a residential care 67472
facility or ~~adult care~~ residential facility and if the 67473
corporation, association, or trust submits an affidavit to the tax 67474
commissioner stating that, commencing on the date of licensure and 67475
continuing thereafter, the home or facility will be operated in 67476
accordance with the requirements of divisions (B)(1)(a) to (e) of 67477
this section, the corporation, association, or trust shall be 67478
considered to be operating a "home for the aged" within the 67479
meaning of division (B)(1) of this section, beginning on the first 67480
day of January of the year in which such certificate is granted or 67481
approval is given. 67482

(2) If a corporation, association, or trust is considered to 67483
be operating a "home for the aged" pursuant to division (C)(1) of 67484
this section, the corporation, association, or trust shall notify 67485
the tax commissioner in writing upon the occurrence of any of the 67486
following events: 67487

(a) The corporation, association, or trust no longer intends 67488
to complete the construction of, addition to, or modification of 67489

the home or facility, to obtain the appropriate license for the 67490
home or facility, or to commence operation of the home or facility 67491
in accordance with the requirements of divisions (B)(1)(a) to (e) 67492
of this section; 67493

(b) The certificate of approval referred to in division 67494
(C)(1) of this section expires, is revoked, or is otherwise 67495
terminated prior to the completion of the construction of, 67496
addition to, or modification of the home or facility; 67497

(c) The license to operate the home or facility is not 67498
granted by the director of health within one year following 67499
completion of the construction of, addition to, or modification of 67500
the home or facility; 67501

(d) The license to operate the home or facility is not 67502
granted by the director of health within four years following the 67503
date upon which the certificate or approval referred to in 67504
division (C)(1) of this section was granted or given; 67505

(e) The home or facility is granted a license to operate as a 67506
nursing home, residential care facility, or ~~adult care~~ residential 67507
facility. 67508

(3) Upon the occurrence of any of the events referred to in 67509
divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the 67510
corporation, association, or trust shall no longer be considered 67511
to be operating a "home for the aged" pursuant to division (C)(1) 67512
of this section, except that the tax commissioner, for good cause 67513
shown and to the extent the commissioner considers appropriate, 67514
may extend the time period specified in division (C)(2)(c) or (d) 67515
of this section, or both. Nothing in division (C)(3) of this 67516
section shall be construed to prevent a nursing home, residential 67517
care facility, or ~~adult care~~ residential facility from qualifying 67518
as a "home for the aged" if, upon proper application made pursuant 67519
to division (B) of this section, it is found to meet the 67520

requirements of divisions (A) and (B) of this section. 67521

Sec. 5703.05. All powers, duties, and functions of the 67522
department of taxation are vested in and shall be performed by the 67523
tax commissioner, which powers, duties, and functions shall 67524
include, but shall not be limited to, the following: 67525

(A) Prescribing all blank forms which the department is 67526
authorized to prescribe, and to provide such forms and distribute 67527
the same as required by law and the rules of the department. 67528

(B) Exercising the authority provided by law, including 67529
orders from bankruptcy courts, relative to remitting or refunding 67530
taxes or assessments, including penalties and interest thereon, 67531
illegally or erroneously assessed or collected, or for any other 67532
reason overpaid, and in addition, the commissioner may on written 67533
application of any person, firm, or corporation claiming to have 67534
overpaid to the treasurer of state at any time within five years 67535
prior to the making of such application any tax payable under any 67536
law which the department of taxation is required to administer 67537
which does not contain any provision for refund, or on the 67538
commissioner's own motion investigate the facts and make in 67539
triplicate a written statement of the commissioner's findings, 67540
and, if the commissioner finds that there has been an overpayment, 67541
issue in triplicate a certificate of abatement payable to the 67542
taxpayer, the taxpayer's assigns, or legal representative which 67543
shows the amount of the overpayment and the kind of tax overpaid. 67544
One copy of such statement shall be entered on the journal of the 67545
commissioner, one shall be certified to the attorney general, and 67546
one certified copy shall be delivered to the taxpayer. All copies 67547
of the certificate of abatement shall be transmitted to the 67548
attorney general, and if the attorney general finds it to be 67549
correct the attorney general shall so certify on each copy, and 67550
deliver one copy to the taxpayer, one copy to the commissioner, 67551

and the third copy to the treasurer of state. Except as provided 67552
in ~~sections~~ section 5725.08 and ~~5725.16~~ of the Revised Code, the 67553
taxpayer's copy of any certificates of abatement may be tendered 67554
by the payee or transferee thereof to the treasurer of state, or 67555
to the commissioner on behalf of the treasurer, as payment, to the 67556
extent of the amount thereof, of any tax payable to the treasurer 67557
of state. 67558

(C) Exercising the authority provided by law relative to 67559
consenting to the compromise and settlement of tax claims; 67560

(D) Exercising the authority provided by law relative to the 67561
use of alternative tax bases by taxpayers in the making of 67562
personal property tax returns; 67563

(E) Exercising the authority provided by law relative to 67564
authorizing the prepayment of taxes on retail sales of tangible 67565
personal property or on the storage, use, or consumption of 67566
personal property, and waiving the collection of such taxes from 67567
the consumers; 67568

(F) Exercising the authority provided by law to revoke 67569
licenses; 67570

(G) Maintaining a continuous study of the practical operation 67571
of all taxation and revenue laws of the state, the manner in which 67572
and extent to which such laws provide revenues for the support of 67573
the state and its political subdivisions, the probable effect upon 67574
such revenue of possible changes in existing laws, and the 67575
possible enactment of measures providing for other forms of 67576
taxation. For this purpose the commissioner may establish and 67577
maintain a division of research and statistics, and may appoint 67578
necessary employees who shall be in the unclassified civil 67579
service; the results of such study shall be available to the 67580
members of the general assembly and the public. 67581

(H) Making all tax assessments, valuations, findings, 67582

determinations, computations, and orders the department of 67583
taxation is by law authorized and required to make and, pursuant 67584
to time limitations provided by law, on the commissioner's own 67585
motion, reviewing, redetermining, or correcting any tax 67586
assessments, valuations, findings, determinations, computations, 67587
or orders the commissioner has made, but the commissioner shall 67588
not review, redetermine, or correct any tax assessment, valuation, 67589
finding, determination, computation, or order which the 67590
commissioner has made as to which an appeal or application for 67591
rehearing, review, redetermination, or correction has been filed 67592
with the board of tax appeals, unless such appeal or application 67593
is withdrawn by the appellant or applicant or dismissed; 67594

(I) Appointing not more than five deputy tax commissioners, 67595
who, under such regulations as the rules of the department of 67596
taxation prescribe, may act for the commissioner in the 67597
performance of such duties as the commissioner prescribes in the 67598
administration of the laws which the commissioner is authorized 67599
and required to administer, and who shall serve in the 67600
unclassified civil service at the pleasure of the commissioner, 67601
but if a person who holds a position in the classified service is 67602
appointed, it shall not affect the civil service status of such 67603
person. The commissioner may designate not more than two of the 67604
deputy commissioners to act as commissioner in case of the 67605
absence, disability, or recusal of the commissioner or vacancy in 67606
the office of commissioner. The commissioner may adopt rules 67607
relating to the order of precedence of such designated deputy 67608
commissioners and to their assumption and administration of the 67609
office of commissioner. 67610

(J) Appointing and prescribing the duties of all other 67611
employees of the department of taxation necessary in the 67612
performance of the work of the department which the tax 67613
commissioner is by law authorized and required to perform, and 67614

creating such divisions or sections of employees as, in the 67615
commissioner's judgment, is proper; 67616

(K) Organizing the work of the department, which the 67617
commissioner is by law authorized and required to perform, so 67618
that, in the commissioner's judgment, an efficient and economical 67619
administration of the laws will result; 67620

(L) Maintaining a journal, which is open to public 67621
inspection, in which the tax commissioner shall keep a record of 67622
all final determinations of the commissioner; 67623

(M) Adopting and promulgating, in the manner provided by 67624
section 5703.14 of the Revised Code, all rules of the department, 67625
including rules for the administration of sections 3517.16, 67626
3517.17, and 5747.081 of the Revised Code; 67627

(N) Destroying any or all returns or assessment certificates 67628
in the manner authorized by law; 67629

(O) Adopting rules, in accordance with division (B) of 67630
section 325.31 of the Revised Code, governing the expenditure of 67631
moneys from the real estate assessment fund under that division. 67632

Sec. 5705.08. On or before the first Monday in May of each 67633
year, the fiscal officer of each subdivision ~~that is not a, except~~ 67634
~~school district~~ districts and the city of Cincinnati, shall 67635
certify to its taxing authority the amount necessary to provide 67636
for the payment of final judgments against the subdivision, except 67637
in condemnation of property cases. The taxing authority shall 67638
place such certified amount in each budget and in the annual 67639
appropriation measure for the full amount certified. 67640

On or before the first Monday in November of each year, the 67641
fiscal officer of the city of Cincinnati and of each school 67642
district shall certify to its ~~board of education~~ taxing authority 67643
the amount necessary to provide for the payment of final judgments 67644

against the ~~district~~ subdivision, except in condemnation of 67645
property cases. The ~~board of education~~ taxing authority shall 67646
place such certified amount in each budget and in the annual 67647
appropriation measure for the full amount certified. 67648

Sec. 5705.19. This section does not apply to school districts 67649
or county school financing districts. 67650

The taxing authority of any subdivision at any time and in 67651
any year, by vote of two-thirds of all the members of the taxing 67652
authority, may declare by resolution and certify the resolution to 67653
the board of elections not less than ninety days before the 67654
election upon which it will be voted that the amount of taxes that 67655
may be raised within the ten-mill limitation will be insufficient 67656
to provide for the necessary requirements of the subdivision and 67657
that it is necessary to levy a tax in excess of that limitation 67658
for any of the following purposes: 67659

(A) For current expenses of the subdivision, except that the 67660
total levy for current expenses of a detention facility district 67661
or district organized under section 2151.65 of the Revised Code 67662
shall not exceed two mills and that the total levy for current 67663
expenses of a combined district organized under sections 2151.65 67664
and 2152.41 of the Revised Code shall not exceed four mills; 67665

(B) For the payment of debt charges on certain described 67666
bonds, notes, or certificates of indebtedness of the subdivision 67667
issued subsequent to January 1, 1925; 67668

(C) For the debt charges on all bonds, notes, and 67669
certificates of indebtedness issued and authorized to be issued 67670
prior to January 1, 1925; 67671

(D) For a public library of, or supported by, the subdivision 67672
under whatever law organized or authorized to be supported; 67673

(E) For a municipal university, not to exceed two mills over 67674

the limitation of one mill prescribed in section 3349.13 of the Revised Code; 67675
67676

(F) For the construction or acquisition of any specific permanent improvement or class of improvements that the taxing authority of the subdivision may include in a single bond issue; 67677
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(G) For the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges in municipal corporations, counties, or townships; 67680
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67682

(H) For parks and recreational purposes; 67683

(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph, or the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, or the purchase of ambulance equipment, or the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company; 67684
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(J) For the purpose of providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, or the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.33 of the Revised Code, or the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in order to obtain police protection, or the provision of ambulance 67696
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| or emergency medical services operated by a police department; | 67706 |
| (K) For the maintenance and operation of a county home or detention facility; | 67707 67708 |
| (L) For community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code, except that the procedure for such levies shall be as provided in section 5705.222 of the Revised Code; | 67709 67710 67711 67712 |
| (M) For regional planning; | 67713 |
| (N) For a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or both of those sections; | 67714 67715 67716 67717 67718 |
| (O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods; | 67719 67720 67721 |
| (P) For maintaining and operating sewage disposal plants and facilities; | 67722 67723 |
| (Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code; | 67724 67725 67726 67727 67728 67729 67730 |
| (R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections; | 67731 67732 67733 67734 |
| (S) For the prevention, control, and abatement of air | 67735 |

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| pollution; | 67736 |
| (T) For maintaining and operating cemeteries; | 67737 |
| (U) For providing ambulance service, emergency medical service, or both; | 67738 67739 |
| (V) For providing for the collection and disposal of garbage or refuse, including yard waste; | 67740 67741 |
| (W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code; | 67742 67743 67744 |
| (X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code; | 67745 67746 |
| (Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code; | 67747 67748 67749 |
| (Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code; | 67750 67751 67752 |
| (AA) For the maintenance and operation of a free public museum of art, science, or history; | 67753 67754 |
| (BB) For the establishment and operation of a 9-1-1 system, as defined in section 4931.40 of the Revised Code; | 67755 67756 |
| (CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation. | 67757 67758 67759 67760 67761 |
| (DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code; | 67762 67763 67764 |

(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;

(FF) For the purpose of acquiring, establishing, constructing, improving, equipping, maintaining, or operating, or any combination of the foregoing, a township airport, landing field, or other air navigation facility pursuant to section 505.15 of the Revised Code;

(GG) For the payment of costs incurred by a township as a result of a contract made with a county pursuant to section 505.263 of the Revised Code in order to pay all or any part of the cost of constructing, maintaining, repairing, or operating a water supply improvement;

(HH) For a board of township trustees to acquire, other than by appropriation, an ownership interest in land, water, or wetlands, or to restore or maintain land, water, or wetlands in which the board has an ownership interest, not for purposes of recreation, but for the purposes of protecting and preserving the natural, scenic, open, or wooded condition of the land, water, or wetlands against modification or encroachment resulting from occupation, development, or other use, which may be styled as protecting or preserving "greenspace" in the resolution, notice of election, or ballot form. Except as otherwise provided in this division, land is not acquired for purposes of recreation, even if the land is used for recreational purposes, so long as no

building, structure, or fixture used for recreational purposes is 67797
permanently attached or affixed to the land. Except as otherwise 67798
provided in this division, land that previously has been acquired 67799
in a township for these greenspace purposes may subsequently be 67800
used for recreational purposes if the board of township trustees 67801
adopts a resolution approving that use and no building, structure, 67802
or fixture used for recreational purposes is permanently attached 67803
or affixed to the land. The authorization to use greenspace land 67804
for recreational use does not apply to land located in a township 67805
that had a population, at the time it passed its first greenspace 67806
levy, of more than thirty-eight thousand within a county that had 67807
a population, at that time, of at least eight hundred sixty 67808
thousand. 67809

(II) For the support by a county of a crime victim assistance 67810
program that is provided and maintained by a county agency or a 67811
private, nonprofit corporation or association under section 307.62 67812
of the Revised Code; 67813

(JJ) For any or all of the purposes set forth in divisions 67814
(I) and (J) of this section. This division applies only to a 67815
township. 67816

(KK) For a countywide public safety communications system 67817
under section 307.63 of the Revised Code. This division applies 67818
only to counties. 67819

(LL) For the support by a county of criminal justice services 67820
under section 307.45 of the Revised Code; 67821

(MM) For the purpose of maintaining and operating a jail or 67822
other detention facility as defined in section 2921.01 of the 67823
Revised Code; 67824

(NN) For purchasing, maintaining, or improving, or any 67825
combination of the foregoing, real estate on which to hold 67826
agricultural fairs. This division applies only to a county. 67827

(OO) For constructing, rehabilitating, repairing, or 67828
maintaining sidewalks, walkways, trails, bicycle pathways, or 67829
similar improvements, or acquiring ownership interests in land 67830
necessary for the foregoing improvements; 67831

(PP) For both of the purposes set forth in divisions (G) and 67832
(OO) of this section. 67833

(QQ) For both of the purposes set forth in divisions (H) and 67834
(HH) of this section. This division applies only to a township. 67835

(RR) For the legislative authority of a municipal 67836
corporation, board of county commissioners of a county, or board 67837
of township trustees of a township to acquire agricultural 67838
easements, as defined in section 5301.67 of the Revised Code, and 67839
to supervise and enforce the easements. 67840

(SS) For both of the purposes set forth in divisions (BB) and 67841
(KK) of this section. This division applies only to a county. 67842

(TT) For the maintenance and operation of a facility that is 67843
organized in whole or in part to promote the sciences and natural 67844
history under section 307.761 of the Revised Code. 67845

(UU) For the creation and operation of a county land 67846
reutilization corporation and for any programs or activities of 67847
the corporation found by the board of directors of the corporation 67848
to be consistent with the purposes for which the corporation is 67849
organized; 67850

(VV) For construction and maintenance of improvements and 67851
expenses of soil and water conservation district programs under 67852
Chapter 1515. of the Revised Code; 67853

(WW) For the Ohio cooperative extension service fund created 67854
under section 3335.35 of the Revised Code for the purposes 67855
prescribed under section 3335.36 of the Revised Code for the 67856
benefit of the citizens of a county. This division applies only to 67857

a county. 67858

(XX) For a municipal corporation that withdraws or proposes 67859
by resolution to withdraw from a regional transit authority under 67860
section 306.55 of the Revised Code to provide transportation 67861
services for the movement of persons within, from, or to the 67862
municipal corporation. 67863

The resolution shall be confined to the purpose or purposes 67864
described in one division of this section, to which the revenue 67865
derived therefrom shall be applied. The existence in any other 67866
division of this section of authority to levy a tax for any part 67867
or all of the same purpose or purposes does not preclude the use 67868
of such revenues for any part of the purpose or purposes of the 67869
division under which the resolution is adopted. 67870

The resolution shall specify the amount of the increase in 67871
rate that it is necessary to levy, the purpose of that increase in 67872
rate, and the number of years during which the increase in rate 67873
shall be in effect, which may or may not include a levy upon the 67874
duplicate of the current year. The number of years may be any 67875
number not exceeding five, except as follows: 67876

(1) When the additional rate is for the payment of debt 67877
charges, the increased rate shall be for the life of the 67878
indebtedness. 67879

(2) When the additional rate is for any of the following, the 67880
increased rate shall be for a continuing period of time: 67881

(a) For the current expenses for a detention facility 67882
district, a district organized under section 2151.65 of the 67883
Revised Code, or a combined district organized under sections 67884
2151.65 and 2152.41 of the Revised Code; 67885

(b) For providing a county's share of the cost of maintaining 67886
and operating schools, district detention facilities, forestry 67887
camps, or other facilities, or any combination thereof, 67888

established under section 2151.65 or 2152.41 of the Revised Code 67889
or under both of those sections. 67890

(3) When the additional rate is for either of the following, 67891
the increased rate may be for a continuing period of time: 67892

(a) For the purposes set forth in division (I), (J), (U), or 67893
(KK) of this section; 67894

(b) For the maintenance and operation of a joint recreation 67895
district. 67896

(4) When the increase is for the purpose or purposes set 67897
forth in division (D), (G), (H), (CC), or (PP) of this section, 67898
the tax levy may be for any specified number of years or for a 67899
continuing period of time, as set forth in the resolution. 67900

(5) When the additional rate is for the purpose described in 67901
division (Z) of this section, the increased rate shall be for any 67902
number of years not exceeding ten. 67903

A levy for one of the purposes set forth in division (G), 67904
(I), (J), or (U) of this section may be reduced pursuant to 67905
section 5705.261 or 5705.31 of the Revised Code. A levy for one of 67906
the purposes set forth in division (G), (I), (J), or (U) of this 67907
section may also be terminated or permanently reduced by the 67908
taxing authority if it adopts a resolution stating that the 67909
continuance of the levy is unnecessary and the levy shall be 67910
terminated or that the millage is excessive and the levy shall be 67911
decreased by a designated amount. 67912

A resolution of a detention facility district, a district 67913
organized under section 2151.65 of the Revised Code, or a combined 67914
district organized under both sections 2151.65 and 2152.41 of the 67915
Revised Code may include both current expenses and other purposes, 67916
provided that the resolution shall apportion the annual rate of 67917
levy between the current expenses and the other purpose or 67918
purposes. The apportionment need not be the same for each year of 67919

the levy, but the respective portions of the rate actually levied 67920
each year for the current expenses and the other purpose or 67921
purposes shall be limited by the apportionment. 67922

Whenever a board of county commissioners, acting either as 67923
the taxing authority of its county or as the taxing authority of a 67924
sewer district or subdistrict created under Chapter 6117. of the 67925
Revised Code, by resolution declares it necessary to levy a tax in 67926
excess of the ten-mill limitation for the purpose of constructing, 67927
improving, or extending sewage disposal plants or sewage systems, 67928
the tax may be in effect for any number of years not exceeding 67929
twenty, and the proceeds of the tax, notwithstanding the general 67930
provisions of this section, may be used to pay debt charges on any 67931
obligations issued and outstanding on behalf of the subdivision 67932
for the purposes enumerated in this paragraph, provided that any 67933
such obligations have been specifically described in the 67934
resolution. 67935

A resolution adopted by the legislative authority of a 67936
municipal corporation that is for the purpose in division (XX) of 67937
this section may be combined with the purpose provided in section 67938
306.55 of the Revised Code, by vote of two-thirds of all members 67939
of the legislative authority. The legislative authority may 67940
certify the resolution to the board of elections as a combined 67941
question. The question appearing on the ballot shall be as 67942
provided in section 5705.252 of the Revised Code. 67943

The resolution shall go into immediate effect upon its 67944
passage, and no publication of the resolution is necessary other 67945
than that provided for in the notice of election. 67946

When the electors of a subdivision have approved a tax levy 67947
under this section, the taxing authority of the subdivision may 67948
anticipate a fraction of the proceeds of the levy and issue 67949
anticipation notes in accordance with section 5705.191 or 5705.193 67950
of the Revised Code. 67951

Sec. 5705.25. (A) A copy of any resolution adopted as 67952
provided in section 5705.19 or 5705.2111 of the Revised Code shall 67953
be certified by the taxing authority to the board of elections of 67954
the proper county not less than ninety days before the general 67955
election in any year, and the board shall submit the proposal to 67956
the electors of the subdivision at the succeeding November 67957
election. Except as otherwise provided in this division, a 67958
resolution to renew an existing levy, regardless of the section of 67959
the Revised Code under which the tax was imposed, shall not be 67960
placed on the ballot unless the question is submitted at the 67961
general election held during the last year the tax to be renewed 67962
or replaced may be extended on the real and public utility 67963
property tax list and duplicate, or at any election held in the 67964
ensuing year. The limitation of the foregoing sentence does not 67965
apply to a resolution to renew and increase or to renew part of an 67966
existing levy that was imposed under section 5705.191 of the 67967
Revised Code to supplement the general fund for the purpose of 67968
making appropriations for one or more of the following purposes: 67969
for public assistance, human or social services, relief, welfare, 67970
hospitalization, health, and support of general hospitals. The 67971
limitation of the second preceding sentence also does not apply to 67972
a resolution that proposes to renew two or more existing levies 67973
imposed under section 5705.21 of the Revised Code, in which case 67974
the question shall be submitted on the date of the general or 67975
primary election held during the last year at least one of the 67976
levies to be renewed may be extended on the real and public 67977
utility property tax list and duplicate, or at any election held 67978
during the ensuing year. For purposes of this section, a levy 67979
shall be considered to be an "existing levy" through the year 67980
following the last year it can be placed on that tax list and 67981
duplicate. 67982

The board shall make the necessary arrangements for the 67983

submission of such questions to the electors of such subdivision, 67984
and the election shall be conducted, canvassed, and certified in 67985
the same manner as regular elections in such subdivision for the 67986
election of county officers. Notice of the election shall be 67987
published in a newspaper of general circulation in the subdivision 67988
once a week for two consecutive weeks, or as provided in section 67989
7.16 of the Revised Code, prior to the election. If the board of 67990
elections operates and maintains a web site, the board of 67991
elections shall post notice of the election on its web site for 67992
thirty days prior to the election. The notice shall state the 67993
purpose, the proposed increase in rate expressed in dollars and 67994
cents for each one hundred dollars of valuation as well as in 67995
mills for each one dollar of valuation, the number of years during 67996
which the increase will be in effect, the first month and year in 67997
which the tax will be levied, and the time and place of the 67998
election. 67999

(B) The form of the ballots cast at an election held pursuant 68000
to division (A) of this section shall be as follows: 68001

"An additional tax for the benefit of (name of subdivision or 68002
public library) for the purpose of (purpose stated in 68003
the resolution) at a rate not exceeding mills 68004
for each one dollar of valuation, which amounts to (rate expressed 68005
in dollars and cents) for each one hundred dollars of 68006
valuation, for (life of indebtedness or number of years the 68007
levy is to run). 68008

| | |
|--|----------------------|
| | For the Tax Levy |
| | Against the Tax Levy |

"

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68012
(C) If the levy is to be in effect for a continuing period of 68013
time, the notice of election and the form of ballot shall so state 68014

instead of setting forth a specified number of years for the levy. 68015

If the tax is to be placed on the current tax list, the form 68016
of the ballot shall be modified by adding, after the statement of 68017
the number of years the levy is to run, the phrase ", commencing 68018
in (first year the tax is to be levied), first due in 68019
calendar year (first calendar year in which the tax 68020
shall be due)." 68021

If the levy submitted is a proposal to renew, increase, or 68022
decrease an existing levy, the form of the ballot specified in 68023
division (B) of this section may be changed by substituting for 68024
the words "An additional" at the beginning of the form, the words 68025
"A renewal of a" in case of a proposal to renew an existing levy 68026
in the same amount; the words "A renewal of mills and an 68027
increase of mills to constitute a" in the case of an 68028
increase; or the words "A renewal of part of an existing levy, 68029
being a reduction of mills, to constitute a" in the case of 68030
a decrease in the proposed levy. 68031

If the levy submitted is a proposal to renew two or more 68032
existing levies imposed under section 5705.21 of the Revised Code, 68033
the form of the ballot specified in division (B) of this section 68034
shall be modified by substituting for the words "an additional 68035
tax" the words "a renewal of(insert the number of levies to 68036
be renewed) existing taxes." 68037

If the levy submitted is a levy under section 5705.72 of the 68038
Revised Code or a proposal to renew, increase, or decrease an 68039
existing levy imposed under that section, the name of the 68040
subdivision shall be "the unincorporated area of (name 68041
of township)." 68042

The question covered by such resolution shall be submitted as 68043
a separate proposition but may be printed on the same ballot with 68044
any other proposition submitted at the same election, other than 68045

the election of officers. More than one such question may be 68046
submitted at the same election. 68047

(D) A levy voted in excess of the ten-mill limitation under 68048
this section shall be certified to the tax commissioner. In the 68049
first year of the levy, it shall be extended on the tax lists 68050
after the February settlement succeeding the election. If the 68051
additional tax is to be placed upon the tax list of the current 68052
year, as specified in the resolution providing for its submission, 68053
the result of the election shall be certified immediately after 68054
the canvass by the board of elections to the taxing authority, who 68055
shall make the necessary levy and certify it to the county 68056
auditor, who shall extend it on the tax lists for collection. 68057
After the first year, the tax levy shall be included in the annual 68058
tax budget that is certified to the county budget commission. 68059

Sec. 5705.252. (A) If the legislative authority of a 68060
municipal corporation adopts a resolution for the purposes 68061
provided in section 306.55 of the Revised Code and division (XX) 68062
of section 5705.19 of the Revised Code and certifies the 68063
resolution to the board of elections as a combined question, the 68064
question appearing on the ballot shall read: 68065

"Shall the territory within the (name of municipal 68066
corporation) be withdrawn from (name of regional transit 68067
authority) and shall an additional tax be levied for the benefit 68068
of (name of municipal corporation) for the purpose 68069
of providing transportation services for the movement of persons 68070
within, from, or to the (name of municipal corporation) at 68071
a rate not exceeding mills for each one dollar of 68072
valuation, which amounts to (rate expressed in dollars and 68073
cents) for each one hundred dollars of valuation, for 68074
(number of years the levy is to run)?" 68075

(B) If the board of trustees of a township adopts a 68076

resolution for the purposes provided in sections 306.55 and 5705.72 of the Revised Code and certifies the resolution to the board of elections as a combined question, the question appearing on the ballot in the unincorporated area of the township shall read: 68077
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"Shall the territory within the unincorporated area of (name of township) be withdrawn from (name of regional transit authority) and shall an additional tax be levied for the benefit of the unincorporated area of (name of township) for the purpose of providing transportation services for the movement of persons within, from, or to the unincorporated area of (name of township) at a rate not exceeding mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, for (number of years the levy is to run)? 68082
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Sec. 5705.28. (A) Except as provided in division (B)(1) or (2) of this section or in section 5705.281 of the Revised Code, the taxing authority of each subdivision or other taxing unit shall adopt a tax budget for the next succeeding fiscal year: 68092
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(1) On or before the fifteenth day of January in the case of a school ~~district~~ districts and the city of Cincinnati; 68096
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(2) On or before the fifteenth day of July in the case of all other subdivisions and taxing units. 68098
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(B)(1) Before the first day of June in each year, the board of trustees of a school library district entitled to participate in any appropriation or revenue of a school district or to have a tax proposed by the board of education of a school district shall file with the board of education of the school district a tax budget for the ensuing fiscal year. On or before the fifteenth day of July in each year, the board of education of a school district to which a school library district tax budget was submitted under 68100
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this division shall adopt such tax budget on behalf of the library 68108
district, but such budget shall not be part of the school 68109
district's tax budget. 68110

(2)(a) The taxing authority of a taxing unit that does not 68111
levy a tax is not required to adopt a tax budget pursuant to 68112
division (A) of this section. Instead, on or before the fifteenth 68113
day of July each year, such taxing authority shall adopt an 68114
operating budget for the taxing unit for the ensuing fiscal year. 68115
The operating budget shall include an estimate of receipts from 68116
all sources, a statement of all taxing unit expenses that are 68117
anticipated to occur, and the amount required for debt charges 68118
during the fiscal year. The operating budget is not required to be 68119
filed with the county auditor or the county budget commission. 68120

(b) Except for this section and sections 5705.36, 5705.38, 68121
5705.40, 5705.41, 5705.43, 5705.44, and 5705.45 of the Revised 68122
Code, a taxing unit that does not levy a tax is not a taxing unit 68123
for purposes of Chapter 5705. of the Revised Code. Documents 68124
prepared in accordance with such sections are not required to be 68125
filed with the county auditor or county budget commission. 68126

(c) The total appropriations from each fund of a taxing unit 68127
that does not levy a tax shall not exceed the total estimated 68128
revenue available for expenditures from the fund, and 68129
appropriations shall be made from each fund only for the purposes 68130
for which the fund is established. 68131

(C)(1) To assist in the preparation of the tax budget, the 68132
head of each department, board, commission, and district authority 68133
entitled to participate in any appropriation or revenue of a 68134
subdivision shall file with the taxing authority, or in the case 68135
of a municipal corporation, with its chief executive officer, 68136
before the forty-fifth day prior to the date on which the budget 68137
must be adopted, an estimate of contemplated revenue and 68138
expenditures for the ensuing fiscal year, in such form as is 68139

prescribed by the taxing authority of the subdivision or by the auditor of state. The taxing authority shall include in its budget of expenditures the full amounts requested by district authorities, not to exceed the amount authorized by law, if such authorities may fix the amount of revenue they are to receive from the subdivision. In a municipal corporation in which a special levy for a municipal university has been authorized to be levied in excess of the ten-mill limitation, or is required by the charter of the municipal corporation, the taxing authority shall include an amount not less than the estimated yield of such levy, if such amount is requested by the board of directors of the municipal university.

(2) A county board of developmental disabilities may include within its estimate of contemplated revenue and expenditures a reserve balance account in the community developmental disabilities residential services fund. The account shall contain money that is not needed to pay for current expenses for residential services and supported living but will be needed to pay for expenses for such services in the future or may be needed for unanticipated emergency expenses. On the request of the county board of developmental disabilities, the board of county commissioners shall include such an account in its budget of expenditures and appropriate money to the account from residential service moneys for the county board.

(D) The board of trustees of any public library desiring to participate in the distribution of the county public library fund shall adopt appropriate rules extending the benefits of the library service of such library to all the inhabitants of the county on equal terms, unless such library service is by law available to all such inhabitants, and shall certify a copy of such rules to the taxing authority with its estimate of contemplated revenue and expenditures. Where such rules have been

so certified or where the adoption of such rules is not required, 68172
the taxing authority shall include in its budget of receipts such 68173
amounts as are specified by such board as contemplated revenue 68174
from the county public library fund, and in its budget of 68175
expenditures the full amounts requested therefrom by such board. 68176
No library association, incorporated or unincorporated, is 68177
entitled to participate in the proceeds of the county public 68178
library fund unless such association both was organized and 68179
operating prior to January 1, 1968, and participated in the 68180
distribution of the proceeds of the county public library fund 68181
prior to December 31, 2005. 68182

Sec. 5705.30. This section does not apply to a subdivision 68183
for which the county budget commission has waived the requirement 68184
to adopt a tax budget under section 5705.281 of the Revised Code. 68185

In addition to the information required by section 5705.29 of 68186
the Revised Code, the budget of each subdivision and school 68187
library district shall include such other information as is 68188
prescribed by the auditor of state. At least two copies of the 68189
budget shall be filed in the office of the fiscal officer of the 68190
subdivision for public inspection not less than ten days before 68191
its adoption by the taxing authority, and such taxing authority 68192
shall hold at least one public hearing thereon, of which public 68193
notice shall be given by at least one publication not less than 68194
ten days prior to the date of hearing in the official publication 68195
of such subdivision, or in a newspaper having general circulation 68196
in the subdivision. The budget, after adoption, shall be submitted 68197
to the county auditor on or before the twentieth day of July, or 68198
in the case of a school district or the city of Cincinnati, by the 68199
twentieth day of January. The tax commissioner may prescribe a 68200
later date for the submission of a subdivision's tax budget. Any 68201
subdivision that fails to submit its budget to the county auditor 68202
on or before the ~~twentieth day of July, unless the commissioner on~~ 68203

~~er before the twentieth day of July prescribes date prescribed by~~ 68204
~~this section or a later date for submission of the budget by that~~ 68205
~~subdivision, prescribed by the commissioner~~ shall not receive an 68206
apportionment from the undivided local government fund 68207
distribution for the ensuing calendar year, ~~unless upon review of~~ 68208
~~the matter~~ the commissioner determines that the budget was adopted 68209
by the subdivision on or before the ~~fifteenth~~ fifth day ~~of July~~ 68210
before the date prescribed by this section for submitting the 68211
budget, but was not submitted ~~to the county auditor~~ by the 68212
~~twentieth day of July~~ date so prescribed or the later time 68213
prescribed by the commissioner because of ministerial error by the 68214
subdivision or its officers, employees, or other representatives. 68215

Sec. 5705.34. When the budget commission has completed its 68216
work with respect to a tax budget or other information required to 68217
be provided under section 5705.281 of the Revised Code, it shall 68218
certify its action to the taxing authority, together with an 68219
estimate by the county auditor of the rate of each tax necessary 68220
to be levied by the taxing authority within its subdivision or 68221
taxing unit, and what part thereof is in excess of, and what part 68222
within, the ten-mill tax limitation. The certification shall also 68223
indicate the date on which each tax levied by the taxing authority 68224
will expire. 68225

If a taxing authority levies a tax for a fixed sum of money 68226
or to pay debt charges for the tax year for which the tax budget 68227
is prepared, and a payment on account of that tax is payable to 68228
the taxing authority for the tax year under section 5727.85, 68229
5727.86, 5751.21, or 5751.22 of the Revised Code, the county 68230
auditor, when estimating the rate at which the tax shall be levied 68231
in the current year, shall estimate the rate necessary to raise 68232
the required sum less the estimated amount of any payments made 68233
for the tax year to a taxing unit for fixed-sum levies under those 68234
sections. The estimated rate shall be the rate of the levy that 68235

the budget commission certifies with its action under this 68236
section. 68237

Each taxing authority, by ordinance or resolution, shall 68238
authorize the necessary tax levies and certify them to the county 68239
auditor before the first day of October in each year, or at such 68240
later date as is approved by the tax commissioner, except that the 68241
certification by the legislative authority of the city of 68242
Cincinnati or by a board of education shall be made by the first 68243
day of April or at such later date as is approved by the 68244
commissioner, and except that a township board of park 68245
commissioners that is appointed by the board of township trustees 68246
and oversees a township park district that contains only 68247
unincorporated territory shall authorize only those taxes approved 68248
by, and only at the rate approved by, the board of township 68249
trustees as required by division (C) of section 511.27 of the 68250
Revised Code. If the levying of a tax to be placed on the 68251
duplicate of the current year is approved by the electors of the 68252
subdivision under sections 5705.01 to 5705.47 of the Revised Code; 68253
if the rate of a school district tax is increased due to the 68254
repeal of a school district income tax and property tax rate 68255
reduction at an election held pursuant to section 5748.04 of the 68256
Revised Code; or if refunding bonds to refund all or a part of the 68257
principal of bonds payable from a tax levy for the ensuing fiscal 68258
year are issued or sold and in the process of delivery, the budget 68259
commission shall reconsider and revise its action on the budget of 68260
the subdivision or school library district for whose benefit the 68261
tax is to be levied after the returns of such election are fully 68262
canvassed, or after the issuance or sale of such refunding bonds 68263
is certified to it. 68264

Sec. 5705.35. (A) The certification of the budget commission 68265
to the taxing authority of each subdivision or taxing unit, as set 68266
forth in section 5705.34 of the Revised Code, shall show the 68267

various funds of such subdivisions other than funds to be created 68268
by transfer and shall be filed by the county budget commission 68269
with such taxing authority on or before the first day of March in 68270
the case of school districts and the city of Cincinnati and on or 68271
before the first day of September in each year in the case of all 68272
other taxing authorities. There shall be set forth on the credit 68273
side of each fund the estimated unencumbered balances and 68274
receipts, and if a tax is to be levied for such fund, the 68275
estimated revenue to be derived therefrom, the rate of the levy, 68276
and what portion thereof is within, and what in excess of, the 68277
ten-mill tax limitation, and on the debit side, the total 68278
appropriations that may be made therefrom. Subject to division (G) 68279
of section 5705.29 of the Revised Code, any reserve balance in an 68280
account established under section 5705.13 of the Revised Code for 68281
the purpose described in division (A)(1) of that section, and the 68282
principal of a nonexpendable trust fund established under section 68283
5705.131 of the Revised Code and any additions to principal 68284
arising from sources other than the reinvestment of investment 68285
earnings arising from that fund, are not unencumbered balances for 68286
the purposes of this section. The balance in a reserve balance 68287
account established under section 5705.132 of the Revised Code is 68288
not an unencumbered balance for the purposes of this division. 68289

There shall be attached to the certification a summary, which 68290
shall be known as the "official certificate of estimated 68291
resources," that shall state the total estimated resources of each 68292
fund of the subdivision that are available for appropriation in 68293
the fiscal year, other than funds to be created by transfer, and a 68294
statement of the amount of the total tax duplicate of the school 68295
district to be used in the collection of taxes for the following 68296
calendar year. Before the end of the fiscal year, the taxing 68297
authority of each subdivision and other taxing unit shall revise 68298
its tax budget, if one was adopted, so that the total contemplated 68299
expenditures from any fund during the ensuing fiscal year will not 68300

exceed the total appropriations that may be made from such fund, 68301
as determined by the budget commission in its certification; and 68302
such revised budget shall be the basis of the annual appropriation 68303
measure. 68304

(B)(1) Except as otherwise provided in division (B)(2) of 68305
this section, revenues from real property taxes scheduled to be 68306
settled on or before the tenth day of August and the fifteenth day 68307
of February of a fiscal year under divisions (A) and (C) of 68308
section 321.24 of the Revised Code, and revenue from taxes levied 68309
on personal property used in business scheduled to be settled on 68310
or before the thirty-first day of October and the thirtieth day of 68311
June of a fiscal year under divisions (B) and (D) of section 68312
321.24 of the Revised Code shall not be available for 68313
appropriation by a board of education prior to the fiscal year in 68314
which such latest scheduled settlement date occurs, except that 68315
moneys advanced to the treasurer of a board of education under 68316
division (A)(2)(b) of section 321.34 of the Revised Code shall be 68317
available for appropriation in the fiscal year in which they are 68318
paid to the treasurer under such section. If the date for any 68319
settlement of taxes is extended under division (E) of section 68320
321.24 of the Revised Code, the latest date set forth in divisions 68321
(A) to (D) of that section shall be used to determine in which 68322
fiscal year the revenues are first available for appropriation. 68323

(2) Revenues available for appropriation by a school district 68324
during a fiscal year may include amounts borrowed in that fiscal 68325
year under section 133.301 of the Revised Code in anticipation of 68326
the collection of taxes that are to be included in the settlements 68327
made under divisions (C) and (D) of section 321.24 of the Revised 68328
Code in the ensuing fiscal year. 68329

Sec. 5705.38. (A) This division does not apply to school 68330
district appropriation measures. On or about the first day of each 68331

fiscal year, the taxing authority of each subdivision or other 68332
taxing unit shall pass an appropriation measure, and thereafter 68333
during the year it may pass any supplemental appropriation 68334
measures as it finds necessary, based on the revised tax budget or 68335
the official certificate of estimated resources or amendments of 68336
the certificate. If it desires to postpone the passage of the 68337
annual appropriation measure until an amended certificate is 68338
received based on the actual balances, it may pass a temporary 68339
appropriation measure for meeting the ordinary expenses of the 68340
taxing unit until no later than the first day of April or, in the 68341
case of the city of Cincinnati, the first day of October, of the 68342
current year, and the appropriations made in the temporary measure 68343
shall be chargeable to the appropriations in the annual 68344
appropriation measure for that fiscal year when passed. 68345

(B) A board of education shall pass its annual appropriation 68346
measure by the first day of October. If, by the first day of 68347
October, a board has not received either the amended certificates 68348
of estimated resources required by division (B) of section 5705.36 68349
of the Revised Code or certifications that no amended certificates 68350
need be issued, the adoption of the annual appropriation measure 68351
shall be delayed until the amended certificates or certifications 68352
are received. Prior to the passage of the annual appropriation 68353
measure, the board may pass a temporary appropriation measure for 68354
meeting the ordinary expenses of the district until it passes an 68355
annual appropriation measure, and appropriations made in the 68356
temporary measure shall be chargeable to the appropriations in the 68357
annual appropriation measure for that fiscal year when passed. 68358
During the fiscal year and after the passage of the annual 68359
appropriation measure, a district may pass any supplemental 68360
appropriation measures as it finds necessary, based on the revised 68361
tax budget or the official certificate of estimated resources or 68362
amendments of the certificate. School district appropriation 68363

measures shall be in the form as the auditor of state, after 68364
consultation with the tax commissioner, prescribes. 68365

(C) Appropriation measures shall be classified so as to set 68366
forth separately the amounts appropriated for each office, 68367
department, and division, and, within each, the amount 68368
appropriated for personal services. In the case of a municipal 68369
university, the board of directors of which have assumed, in the 68370
manner provided by law, custody and control of the funds of the 68371
university, funds shall be appropriated as a lump sum for the use 68372
of the university. 68373

Sec. 5705.72. (A) As used in this section and in section 68374
5705.25 of the Revised Code with regard to a levy submitted under 68375
this section, "electors" means electors of the unincorporated area 68376
of a township. 68377

(B) The board of trustees of any township that withdraws or 68378
proposes by resolution to withdraw the unincorporated area of the 68379
township from a regional transit authority under section 306.55 of 68380
the Revised Code, by vote of two-thirds of all the members of the 68381
board of trustees, may declare by resolution that the amount of 68382
taxes that may be raised within the ten-mill limitation will be 68383
insufficient to provide transportation services to the 68384
unincorporated area of the township and that it is necessary to 68385
levy a tax in excess of that limitation within the unincorporated 68386
area of that township for the purpose of providing transportation 68387
services for the movement of persons within, from, or to the 68388
unincorporated area of that township. 68389

The resolution shall specify the necessary amount of the 68390
increase in rate to levy, the purpose of such increase, and the 68391
number of years, not exceeding ten, during which the rate increase 68392
shall be in effect, which may or may not include a levy upon the 68393
tax list of the current year. 68394

The resolution shall be submitted to the proper county board of elections not less than ninety days before the date of the election at which the question will appear on the ballot and in the manner provided by section 5705.25 of the Revised Code, except that the question may be submitted to electors at a general election or a special election held on a date consistent with section 3501.01 of the Revised Code.

A resolution adopted by the board of trustees of a township under this section may be combined with a resolution for the withdrawal of the unincorporated area of the township from a regional transit authority as provided in section 306.55 of the Revised Code, by vote of two-thirds of all members of the board. The board may certify the combined resolution to the board of elections as a combined question. The question appearing on the ballot shall be as provided in section 5705.252 of the Revised Code.

When electors have approved a tax levy under this section, the board of township trustees may anticipate a fraction of the proceeds of the levy and issue anticipation notes as authorized by section 5705.191 of the Revised Code for a current expense levy with a fixed term, and may anticipate the collection of current revenue under section 133.10 of the Revised Code.

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 68426
institutions that is used exclusively for charitable purposes 68427
shall be exempt from taxation, including real property belonging 68428
to an institution that is a nonprofit corporation that receives a 68429
grant under the Thomas Alva Edison grant program authorized by 68430
division (C) of section 122.33 of the Revised Code at any time 68431
during the tax year and being held for leasing or resale to 68432
others. If, at any time during a tax year for which such property 68433
is exempted from taxation, the corporation ceases to qualify for 68434
such a grant, the director of development shall notify the tax 68435
commissioner, and the tax commissioner shall cause the property to 68436
be restored to the tax list beginning with the following tax year. 68437
All property owned and used by a nonprofit organization 68438
exclusively for a home for the aged, as defined in section 5701.13 68439
of the Revised Code, also shall be exempt from taxation. 68440

(C)(1) If a home for the aged described in division (B)(1) of 68441
section 5701.13 of the Revised Code is operated in conjunction 68442
with or at the same site as independent living facilities, the 68443
exemption granted in division (B) of this section shall include 68444
kitchen, dining room, clinic, entry ways, maintenance and storage 68445
areas, and land necessary for access commonly used by both 68446
residents of the home for the aged and residents of the 68447
independent living facilities. Other facilities commonly used by 68448
both residents of the home for the aged and residents of 68449
independent living units shall be exempt from taxation only if the 68450
other facilities are used primarily by the residents of the home 68451
for the aged. Vacant land currently unused by the home, and 68452
independent living facilities and the lands connected with them 68453
are not exempt from taxation. Except as provided in division 68454
(A)(1) of section 5709.121 of the Revised Code, property of a home 68455
leased for nonresidential purposes is not exempt from taxation. 68456

(2) Independent living facilities are exempt from taxation if 68457

they are operated in conjunction with or at the same site as a 68458
home for the aged described in division (B)(2) of section 5701.13 68459
of the Revised Code; operated by a corporation, association, or 68460
trust described in division (B)(1)(b) of that section; operated 68461
exclusively for the benefit of members of the corporation, 68462
association, or trust who are retired, aged, or infirm; and 68463
provided to those members without charge in consideration of their 68464
service, without compensation, to a charitable, religious, 68465
fraternal, or educational institution. For the purposes of 68466
division (C)(2) of this section, "compensation" does not include 68467
furnishing room and board, clothing, health care, or other 68468
necessities, or stipends or other de minimis payments to defray 68469
the cost thereof. 68470

(D)(1) A private corporation established under federal law, 68471
defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as 68472
amended, the objects of which include encouraging the advancement 68473
of science generally, or of a particular branch of science, the 68474
promotion of scientific research, the improvement of the 68475
qualifications and usefulness of scientists, or the increase and 68476
diffusion of scientific knowledge is conclusively presumed to be a 68477
charitable or educational institution. A private corporation 68478
established as a nonprofit corporation under the laws of a state, 68479
that is exempt from federal income taxation under section 68480
501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 68481
U.S.C.A. 1, as amended, and has as its principal purpose one or 68482
more of the foregoing objects, also is conclusively presumed to be 68483
a charitable or educational institution. 68484

The fact that an organization described in this division 68485
operates in a manner that results in an excess of revenues over 68486
expenses shall not be used to deny the exemption granted by this 68487
section, provided such excess is used, or is held for use, for 68488
exempt purposes or to establish a reserve against future 68489

contingencies; and, provided further, that such excess may not be 68490
distributed to individual persons or to entities that would not be 68491
entitled to the tax exemptions provided by this chapter. Nor shall 68492
the fact that any scientific information diffused by the 68493
organization is of particular interest or benefit to any of its 68494
individual members be used to deny the exemption granted by this 68495
section, provided that such scientific information is available to 68496
the public for purchase or otherwise. 68497

(2) Division (D)(2) of this section does not apply to real 68498
property exempted from taxation under this section and division 68499
(A)(3) of section 5709.121 of the Revised Code and belonging to a 68500
nonprofit corporation described in division (D)(1) of this section 68501
that has received a grant under the Thomas Alva Edison grant 68502
program authorized by division (C) of section 122.33 of the 68503
Revised Code during any of the tax years the property was exempted 68504
from taxation. 68505

When a private corporation described in division (D)(1) of 68506
this section sells all or any portion of a tract, lot, or parcel 68507
of real estate that has been exempt from taxation under this 68508
section and section 5709.121 of the Revised Code, the portion sold 68509
shall be restored to the tax list for the year following the year 68510
of the sale and, except in connection with a sale and transfer of 68511
such a tract, lot, or parcel to a county land reutilization 68512
corporation organized under Chapter 1724. of the Revised Code, a 68513
charge shall be levied against the sold property in an amount 68514
equal to the tax savings on such property during the four tax 68515
years preceding the year the property is placed on the tax list. 68516
The tax savings equals the amount of the additional taxes that 68517
would have been levied if such property had not been exempt from 68518
taxation. 68519

The charge constitutes a lien of the state upon such property 68520
as of the first day of January of the tax year in which the charge 68521

is levied and continues until discharged as provided by law. The 68522
charge may also be remitted for all or any portion of such 68523
property that the tax commissioner determines is entitled to 68524
exemption from real property taxation for the year such property 68525
is restored to the tax list under any provision of the Revised 68526
Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 68527
5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, 68528
upon an application for exemption covering the year such property 68529
is restored to the tax list filed under section 5715.27 of the 68530
Revised Code. 68531

(E) Real property held by an organization organized and 68532
operated exclusively for charitable purposes as described under 68533
section 501(c)(3) of the Internal Revenue Code and exempt from 68534
federal taxation under section 501(a) of the Internal Revenue 68535
Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose 68536
of constructing or rehabilitating residences for eventual transfer 68537
to qualified low-income families through sale, lease, or land 68538
installment contract, shall be exempt from taxation. 68539

The exemption shall commence on the day title to the property 68540
is transferred to the organization and shall continue to the end 68541
of the tax year in which the organization transfers title to the 68542
property to a qualified low-income family. In no case shall the 68543
exemption extend beyond the second succeeding tax year following 68544
the year in which the title was transferred to the organization. 68545
If the title is transferred to the organization and from the 68546
organization to a qualified low-income family in the same tax 68547
year, the exemption shall continue to the end of that tax year. 68548
The proportionate amount of taxes that are a lien but not yet 68549
determined, assessed, and levied for the tax year in which title 68550
is transferred to the organization shall be remitted by the county 68551
auditor for each day of the year that title is held by the 68552
organization. 68553

Upon transferring the title to another person, the 68554
organization shall file with the county auditor an affidavit 68555
affirming that the title was transferred to a qualified low-income 68556
family or that the title was not transferred to a qualified 68557
low-income family, as the case may be; if the title was 68558
transferred to a qualified low-income family, the affidavit shall 68559
identify the transferee by name. If the organization transfers 68560
title to the property to anyone other than a qualified low-income 68561
family, the exemption, if it has not previously expired, shall 68562
terminate, and the property shall be restored to the tax list for 68563
the year following the year of the transfer and a charge shall be 68564
levied against the property in an amount equal to the amount of 68565
additional taxes that would have been levied if such property had 68566
not been exempt from taxation. The charge constitutes a lien of 68567
the state upon such property as of the first day of January of the 68568
tax year in which the charge is levied and continues until 68569
discharged as provided by law. 68570

The application for exemption shall be filed as otherwise 68571
required under section 5715.27 of the Revised Code, except that 68572
the organization holding the property shall file with its 68573
application documentation substantiating its status as an 68574
organization organized and operated exclusively for charitable 68575
purposes under section 501(c)(3) of the Internal Revenue Code and 68576
its qualification for exemption from federal taxation under 68577
section 501(a) of the Internal Revenue Code, and affirming its 68578
intention to construct or rehabilitate the property for the 68579
eventual transfer to qualified low-income families. 68580

As used in this division, "qualified low-income family" means 68581
a family whose income does not exceed two hundred per cent of the 68582
official federal poverty guidelines as revised annually in 68583
accordance with section 673(2) of the "Omnibus Budget 68584
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as 68585

amended, for a family size equal to the size of the family whose
income is being determined.

(F) Real property held by a county land reutilization
corporation organized under Chapter 1724. of the Revised Code
shall be exempt from taxation. Notwithstanding section 5715.27 of
the Revised Code, a county land reutilization corporation is not
required to apply to any county or state agency in order to
qualify for the exemption.

The exemption shall commence on the day title to the property
is transferred to the corporation and shall continue to the end of
the tax year in which the instrument transferring title from the
corporation to another owner is recorded, if the use to which the
other owner puts the property does not qualify for an exemption
under this section or any other section of the Revised Code. If
the title to the property is transferred to the corporation and
from the corporation in the same tax year, the exemption shall
continue to the end of that tax year. The proportionate amount of
taxes that are a lien but not yet determined, assessed, and levied
for the tax year in which title is transferred to the corporation
shall be remitted by the county auditor for each day of the year
that title is held by the corporation.

Upon transferring the title to another person, the
corporation shall file with the county auditor an affidavit
affirming that the title was transferred to such other person and
shall identify the transferee by name. If the corporation
transfers title to the property to anyone that does not qualify or
the use to which the property is put does not qualify the property
for an exemption under this section or any other section of the
Revised Code, the exemption, if it has not previously expired,
shall terminate, and the property shall be restored to the tax
list for the year following the year of the transfer. A charge
shall be levied against the property in an amount equal to the

amount of additional taxes that would have been levied if such 68618
property had not been exempt from taxation. The charge constitutes 68619
a lien of the state upon such property as of the first day of 68620
January of the tax year in which the charge is levied and 68621
continues until discharged as provided by law. 68622

In lieu of the application for exemption otherwise required 68623
to be filed as required under section 5715.27 of the Revised Code, 68624
a count land reutilization corporation holding the property shall, 68625
upon the request of any county or state agency, submit its 68626
articles of incorporation substantiating its status as a county 68627
land reutilization corporation. 68628

Sec. 5709.212. (A) With every application for an exempt 68629
facility certificate filed pursuant to section 5709.21 of the 68630
Revised Code, the applicant shall pay a fee equal to one-half of 68631
one per cent of the total exempt facility project cost, not to 68632
exceed two thousand dollars. One-half of the fee received with 68633
applications for exempt facility certificates shall be credited to 68634
the exempt facility administrative fund, which is hereby created 68635
in the state treasury, for appropriation to the department of 68636
taxation for use in administering sections 5709.20 to 5709.27 of 68637
the Revised Code. If the director of environmental protection is 68638
required to provide the opinion for an application, one-half of 68639
the fee shall be credited to the non-Title V clean air fund 68640
created in section 3704.035 of the Revised Code for use in 68641
administering section 5709.211 of the Revised Code, unless the 68642
application is for an industrial water pollution control facility. 68643
If the application is for an industrial water pollution control 68644
facility, one-half of the fee shall be credited to the surface 68645
water protection fund created in section 6111.038 of the Revised 68646
Code for use in administering section 5709.211 of the Revised 68647
Code. If the director of development is required to provide the 68648
opinion for an application, one-half of the fee for each exempt 68649

facility application shall be credited to the exempt facility 68650
inspection fund, which is hereby created in the state treasury, 68651
for appropriation to the department of development for use in 68652
administering section 5709.211 of the Revised Code. 68653

An applicant is not entitled to any tax exemption under 68654
section 5709.25 of the Revised Code until the fee required by this 68655
section is paid. The fee required by this section is not 68656
refundable, and is due with the application for an exempt facility 68657
certificate even if an exempt facility certificate ultimately is 68658
not issued or is withdrawn. Any application submitted without 68659
payment of the fee shall be deemed incomplete until the fee is 68660
paid. 68661

(B) The application fee imposed under division (A) of this 68662
section for a jointly owned facility shall be equal to one-half of 68663
one per cent of the total exempt facility project cost, not to 68664
exceed two thousand dollars for each facility that is the subject 68665
of the application. 68666

Sec. 5709.73. (A) As used in this section and section 5709.74 68667
of the Revised Code: 68668

(1) "Business day" means a day of the week excluding 68669
Saturday, Sunday, and a legal holiday as defined in section 1.14 68670
of the Revised Code. 68671

(2) "Further improvements" or "improvements" means the 68672
increase in the assessed value of real property that would first 68673
appear on the tax list and duplicate of real and public utility 68674
property after the effective date of a resolution adopted under 68675
this section were it not for the exemption granted by that 68676
resolution. For purposes of division (B) of this section, 68677
"improvements" do not include any property used or to be used for 68678
residential purposes. 68679

(3) "Housing renovation" means a project carried out for residential purposes. 68680
68681

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township. 68682
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(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code. 68685
68686

(B) A board of township trustees may, by unanimous vote, adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land that directly benefits from the public infrastructure improvements, for a period of not more than ten years. The resolution shall specify the percentage of the further improvements to be exempted and the life of the exemption. 68687
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(C)(1) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no board of township trustees of a township that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the township that would have been taxable in the preceding year were it not for the fact 68700
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that the property was in an existing incentive district and 68712
therefore exempt from taxation exceeds twenty-five per cent of the 68713
taxable value of real property in the township for the preceding 68714
tax year. The district shall be located within the unincorporated 68715
area of the township and shall not include any territory that is 68716
included within a district created under division (B) of section 68717
5709.78 of the Revised Code. The resolution shall delineate the 68718
boundary of the district and specifically identify each parcel 68719
within the district. A district may not include any parcel that is 68720
or has been exempted from taxation under division (B) of this 68721
section or that is or has been within another district created 68722
under this division. A resolution may create more than one 68723
district, and more than one resolution may be adopted under 68724
division (C)(1) of this section. 68725

(2) Not later than thirty days prior to adopting a resolution 68726
under division (C)(1) of this section, if the township intends to 68727
apply for exemptions from taxation under section 5709.911 of the 68728
Revised Code on behalf of owners of real property located within 68729
the proposed incentive district, the board shall conduct a public 68730
hearing on the proposed resolution. Not later than thirty days 68731
prior to the public hearing, the board shall give notice of the 68732
public hearing and the proposed resolution by first class mail to 68733
every real property owner whose property is located within the 68734
boundaries of the proposed incentive district that is the subject 68735
of the proposed resolution. 68736

(3)(a) A resolution adopted under division (C)(1) of this 68737
section shall specify the life of the incentive district and the 68738
percentage of the improvements to be exempted, shall designate the 68739
public infrastructure improvements made, to be made, or in the 68740
process of being made, that benefit or serve, or, once made, will 68741
benefit or serve parcels in the district. The resolution also 68742
shall identify one or more specific projects being, or to be, 68743

undertaken in the district that place additional demand on the 68744
public infrastructure improvements designated in the resolution. 68745
The project identified may, but need not be, the project under 68746
division (C)(3)(b) of this section that places real property in 68747
use for commercial or industrial purposes. 68748

A resolution adopted under division (C)(1) of this section on 68749
or after March 30, 2006, shall not designate police or fire 68750
equipment as public infrastructure improvements, and no service 68751
payment provided for in section 5709.74 of the Revised Code and 68752
received by the township under the resolution shall be used for 68753
police or fire equipment. 68754

(b) A resolution adopted under division (C)(1) of this 68755
section may authorize the use of service payments provided for in 68756
section 5709.74 of the Revised Code for the purpose of housing 68757
renovations within the incentive district, provided that the 68758
resolution also designates public infrastructure improvements that 68759
benefit or serve the district, and that a project within the 68760
district places real property in use for commercial or industrial 68761
purposes. Service payments may be used to finance or support 68762
loans, deferred loans, and grants to persons for the purpose of 68763
housing renovations within the district. The resolution shall 68764
designate the parcels within the district that are eligible for 68765
housing renovations. The resolution shall state separately the 68766
amount or the percentages of the expected aggregate service 68767
payments that are designated for each public infrastructure 68768
improvement and for the purpose of housing renovations. 68769

(4) Except with the approval of the board of education of 68770
each city, local, or exempted village school district within the 68771
territory of which the incentive district is or will be located, 68772
and subject to division (E) of this section, the life of an 68773
incentive district shall not exceed ten years, and the percentage 68774
of improvements to be exempted shall not exceed seventy-five per 68775

cent. With approval of the board of education, the life of a 68776
district may be not more than thirty years, and the percentage of 68777
improvements to be exempted may be not more than one hundred per 68778
cent. The approval of a board of education shall be obtained in 68779
the manner provided in division (D) of this section. 68780

(D) Improvements with respect to a parcel may be exempted 68781
from taxation under division (B) of this section, and improvements 68782
to parcels within an incentive district may be exempted from 68783
taxation under division (C) of this section, for up to ten years 68784
or, with the approval of the board of education of the city, 68785
local, or exempted village school district within which the parcel 68786
or district is located, for up to thirty years. The percentage of 68787
the improvements exempted from taxation may, with such approval, 68788
exceed seventy-five per cent, but shall not exceed one hundred per 68789
cent. Not later than forty-five business days prior to adopting a 68790
resolution under this section declaring improvements to be a 68791
public purpose that is subject to approval by a board of education 68792
under this division, the board of township trustees shall deliver 68793
to the board of education a notice stating its intent to adopt a 68794
resolution making that declaration. The notice regarding 68795
improvements with respect to a parcel under division (B) of this 68796
section shall identify the parcels for which improvements are to 68797
be exempted from taxation, provide an estimate of the true value 68798
in money of the improvements, specify the period for which the 68799
improvements would be exempted from taxation and the percentage of 68800
the improvements that would be exempted, and indicate the date on 68801
which the board of township trustees intends to adopt the 68802
resolution. The notice regarding improvements made under division 68803
(C) of this section to parcels within an incentive district shall 68804
delineate the boundaries of the district, specifically identify 68805
each parcel within the district, identify each anticipated 68806
improvement in the district, provide an estimate of the true value 68807
in money of each such improvement, specify the life of the 68808

district and the percentage of improvements that would be 68809
exempted, and indicate the date on which the board of township 68810
trustees intends to adopt the resolution. The board of education, 68811
by resolution adopted by a majority of the board, may approve the 68812
exemption for the period or for the exemption percentage specified 68813
in the notice; may disapprove the exemption for the number of 68814
years in excess of ten, may disapprove the exemption for the 68815
percentage of the improvements to be exempted in excess of 68816
seventy-five per cent, or both; or may approve the exemption on 68817
the condition that the board of township trustees and the board of 68818
education negotiate an agreement providing for compensation to the 68819
school district equal in value to a percentage of the amount of 68820
taxes exempted in the eleventh and subsequent years of the 68821
exemption period or, in the case of exemption percentages in 68822
excess of seventy-five per cent, compensation equal in value to a 68823
percentage of the taxes that would be payable on the portion of 68824
the improvements in excess of seventy-five per cent were that 68825
portion to be subject to taxation, or other mutually agreeable 68826
compensation. 68827

The board of education shall certify its resolution to the 68828
board of township trustees not later than fourteen days prior to 68829
the date the board of township trustees intends to adopt the 68830
resolution as indicated in the notice. If the board of education 68831
and the board of township trustees negotiate a mutually acceptable 68832
compensation agreement, the resolution may declare the 68833
improvements a public purpose for the number of years specified in 68834
the resolution or, in the case of exemption percentages in excess 68835
of seventy-five per cent, for the exemption percentage specified 68836
in the resolution. In either case, if the board of education and 68837
the board of township trustees fail to negotiate a mutually 68838
acceptable compensation agreement, the resolution may declare the 68839
improvements a public purpose for not more than ten years, and 68840
shall not exempt more than seventy-five per cent of the 68841

improvements from taxation. If the board of education fails to 68842
certify a resolution to the board of township trustees within the 68843
time prescribed by this section, the board of township trustees 68844
thereupon may adopt the resolution and may declare the 68845
improvements a public purpose for up to thirty years or, in the 68846
case of exemption percentages proposed in excess of seventy-five 68847
per cent, for the exemption percentage specified in the 68848
resolution. The board of township trustees may adopt the 68849
resolution at any time after the board of education certifies its 68850
resolution approving the exemption to the board of township 68851
trustees, or, if the board of education approves the exemption on 68852
the condition that a mutually acceptable compensation agreement be 68853
negotiated, at any time after the compensation agreement is agreed 68854
to by the board of education and the board of township trustees. 68855
If a mutually acceptable compensation agreement is negotiated 68856
between the board of township trustees and the board of education, 68857
including agreements for payments in lieu of taxes under section 68858
5709.74 of the Revised Code, the board of township trustees shall 68859
compensate the joint vocational school district within which the 68860
parcel or district is located at the same rate and under the same 68861
terms received by the city, local, or exempted village school 68862
district. 68863

If a board of education has adopted a resolution waiving its 68864
right to approve exemptions from taxation under this section and 68865
the resolution remains in effect, approval of such exemptions by 68866
the board of education is not required under division (D) of this 68867
section. If a board of education has adopted a resolution allowing 68868
a board of township trustees to deliver the notice required under 68869
division (D) of this section fewer than forty-five business days 68870
prior to adoption of the resolution by the board of township 68871
trustees, the board of township trustees shall deliver the notice 68872
to the board of education not later than the number of days prior 68873
to the adoption as prescribed by the board of education in its 68874

resolution. If a board of education adopts a resolution waiving 68875
its right to approve exemptions or shortening the notification 68876
period, the board of education shall certify a copy of the 68877
resolution to the board of township trustees. If the board of 68878
education rescinds the resolution, it shall certify notice of the 68879
rescission to the board of township trustees. 68880

If the board of township trustees is not required by division 68881
(D) of this section to notify the board of education of the board 68882
of township trustees' intent to declare improvements to be a 68883
public purpose, the board of township trustees shall comply with 68884
the notice requirements imposed under section 5709.83 of the 68885
Revised Code before taking formal action to adopt the resolution 68886
making that declaration, unless the board of education has adopted 68887
a resolution under that section waiving its right to receive the 68888
notice. 68889

(E)(1) If a proposed resolution under division (C)(1) of this 68890
section exempts improvements with respect to a parcel within an 68891
incentive district for more than ten years, or the percentage of 68892
the improvement exempted from taxation exceeds seventy-five per 68893
cent, not later than forty-five business days prior to adopting 68894
the resolution the board of township trustees shall deliver to the 68895
board of county commissioners of the county within which the 68896
incentive district is or will be located a notice that states its 68897
intent to adopt a resolution creating an incentive district. The 68898
notice shall include a copy of the proposed resolution, identify 68899
the parcels for which improvements are to be exempted from 68900
taxation, provide an estimate of the true value in money of the 68901
improvements, specify the period of time for which the 68902
improvements would be exempted from taxation, specify the 68903
percentage of the improvements that would be exempted from 68904
taxation, and indicate the date on which the board of township 68905
trustees intends to adopt the resolution. 68906

(2) The board of county commissioners, by resolution adopted 68907
by a majority of the board, may object to the exemption for the 68908
number of years in excess of ten, may object to the exemption for 68909
the percentage of the improvement to be exempted in excess of 68910
seventy-five per cent, or both. If the board of county 68911
commissioners objects, the board may negotiate a mutually 68912
acceptable compensation agreement with the board of township 68913
trustees. In no case shall the compensation provided to the board 68914
of county commissioners exceed the property taxes foregone due to 68915
the exemption. If the board of county commissioners objects, and 68916
the board of county commissioners and board of township trustees 68917
fail to negotiate a mutually acceptable compensation agreement, 68918
the resolution adopted under division (C)(1) of this section shall 68919
provide to the board of county commissioners compensation in the 68920
eleventh and subsequent years of the exemption period equal in 68921
value to not more than fifty per cent of the taxes that would be 68922
payable to the county or, if the board of county commissioner's 68923
objection includes an objection to an exemption percentage in 68924
excess of seventy-five per cent, compensation equal in value to 68925
not more than fifty per cent of the taxes that would be payable to 68926
the county, on the portion of the improvement in excess of 68927
seventy-five per cent, were that portion to be subject to 68928
taxation. The board of county commissioners shall certify its 68929
resolution to the board of township trustees not later than thirty 68930
days after receipt of the notice. 68931

(3) If the board of county commissioners does not object or 68932
fails to certify its resolution objecting to an exemption within 68933
thirty days after receipt of the notice, the board of township 68934
trustees may adopt its resolution, and no compensation shall be 68935
provided to the board of county commissioners. If the board of 68936
county commissioners timely certifies its resolution objecting to 68937
the trustees' resolution, the board of township trustees may adopt 68938
its resolution at any time after a mutually acceptable 68939

compensation agreement is agreed to by the board of county 68940
commissioners and the board of township trustees, or, if no 68941
compensation agreement is negotiated, at any time after the board 68942
of township trustees agrees in the proposed resolution to provide 68943
compensation to the board of county commissioners of fifty per 68944
cent of the taxes that would be payable to the county in the 68945
eleventh and subsequent years of the exemption period or on the 68946
portion of the improvement in excess of seventy-five per cent, 68947
were that portion to be subject to taxation. 68948

(F) Service payments in lieu of taxes that are attributable 68949
to any amount by which the effective tax rate of either a renewal 68950
levy with an increase or a replacement levy exceeds the effective 68951
tax rate of the levy renewed or replaced, or that are attributable 68952
to an additional levy, for a levy authorized by the voters for any 68953
of the following purposes on or after January 1, 2006, and which 68954
are provided pursuant to a resolution creating an incentive 68955
district under division (C)(1) of this section that is adopted on 68956
or after January 1, 2006, shall be distributed to the appropriate 68957
taxing authority as required under division (C) of section 5709.74 68958
of the Revised Code in an amount equal to the amount of taxes from 68959
that additional levy or from the increase in the effective tax 68960
rate of such renewal or replacement levy that would have been 68961
payable to that taxing authority from the following levies were it 68962
not for the exemption authorized under division (C) of this 68963
section: 68964

(1) A tax levied under division (L) of section 5705.19 or 68965
section 5705.191 of the Revised Code for community mental 68966
retardation and developmental disabilities programs and services 68967
pursuant to Chapter 5126. of the Revised Code; 68968

(2) A tax levied under division (Y) of section 5705.19 of the 68969
Revised Code for providing or maintaining senior citizens services 68970
or facilities; 68971

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| (3) A tax levied under section 5705.22 of the Revised Code for county hospitals; | 68972 68973 |
| (4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or families; | 68974 68975 68976 68977 |
| (5) A tax levied under section 5705.23 of the Revised Code for library purposes; | 68978 68979 |
| (6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children; | 68980 68981 68982 |
| (7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code; | 68983 68984 68985 |
| (8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts; | 68986 68987 68988 |
| (9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code; | 68989 68990 68991 68992 |
| (10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes; | 68993 68994 |
| (11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals; | 68995 68996 68997 68998 |
| (12) A tax levied under section 3709.29 of the Revised Code for a general health district program. | 68999 69000 |
| (G) An exemption from taxation granted under this section | 69001 |

commences with the tax year specified in the resolution so long as 69002
the year specified in the resolution commences after the effective 69003
date of the resolution. If the resolution specifies a year 69004
commencing before the effective date of the resolution or 69005
specifies no year whatsoever, the exemption commences with the tax 69006
year in which an exempted improvement first appears on the tax 69007
list and duplicate of real and public utility property and that 69008
commences after the effective date of the resolution. Except as 69009
otherwise provided in this division, the exemption ends on the 69010
date specified in the resolution as the date the improvement 69011
ceases to be a public purpose or the incentive district expires, 69012
or ends on the date on which the public infrastructure 69013
improvements and housing renovations are paid in full from the 69014
township public improvement tax increment equivalent fund 69015
established under section 5709.75 of the Revised Code, whichever 69016
occurs first. The exemption of an improvement with respect to a 69017
parcel or within an incentive district may end on a later date, as 69018
specified in the resolution, if the board of township trustees and 69019
the board of education of the city, local, or exempted village 69020
school district within which the parcel or district is located 69021
have entered into a compensation agreement under section 5709.82 69022
of the Revised Code with respect to the improvement and the board 69023
of education has approved the term of the exemption under division 69024
(D) of this section, but in no case shall the improvement be 69025
exempted from taxation for more than thirty years. The board of 69026
township trustees may, by majority vote, adopt a resolution 69027
permitting the township to enter into such agreements as the board 69028
finds necessary or appropriate to provide for the construction or 69029
undertaking of public infrastructure improvements and housing 69030
renovations. Any exemption shall be claimed and allowed in the 69031
same or a similar manner as in the case of other real property 69032
exemptions. If an exemption status changes during a tax year, the 69033
procedure for the apportionment of the taxes for that year is the 69034

same as in the case of other changes in tax exemption status 69035
during the year. 69036

(H) The board of township trustees may issue the notes of the 69037
township to finance all costs pertaining to the construction or 69038
undertaking of public infrastructure improvements and housing 69039
renovations made pursuant to this section. The notes shall be 69040
signed by the board and attested by the signature of the township 69041
fiscal officer, shall bear interest not to exceed the rate 69042
provided in section 9.95 of the Revised Code, and are not subject 69043
to Chapter 133. of the Revised Code. The resolution authorizing 69044
the issuance of the notes shall pledge the funds of the township 69045
public improvement tax increment equivalent fund established 69046
pursuant to section 5709.75 of the Revised Code to pay the 69047
interest on and principal of the notes. The notes, which may 69048
contain a clause permitting prepayment at the option of the board, 69049
shall be offered for sale on the open market or given to the 69050
vendor or contractor if no sale is made. 69051

(I) The township, not later than fifteen days after the 69052
adoption of a resolution under this section, shall submit to the 69053
director of development a copy of the resolution. On or before the 69054
thirty-first day of March of each year, the township shall submit 69055
a status report to the director of development. The report shall 69056
indicate, in the manner prescribed by the director, the progress 69057
of the project during each year that the exemption remains in 69058
effect, including a summary of the receipts from service payments 69059
in lieu of taxes; expenditures of money from the fund created 69060
under section 5709.75 of the Revised Code; a description of the 69061
public infrastructure improvements and housing renovations 69062
financed with the expenditures; and a quantitative summary of 69063
changes in private investment resulting from each project. 69064

(J) Nothing in this section shall be construed to prohibit a 69065
board of township trustees from declaring to be a public purpose 69066

improvements with respect to more than one parcel. 69067

(K) A board of township trustees that adopted a resolution 69068
under this section prior to July 21, 1994, may amend that 69069
resolution to include any additional public infrastructure 69070
improvement. A board of township trustees that seeks by the 69071
amendment to utilize money from its township public improvement 69072
tax increment equivalent fund for land acquisition in aid of 69073
industry, commerce, distribution, or research, demolition on 69074
private property, or stormwater and flood remediation projects may 69075
do so provided that the board currently is a party to a 69076
hold-harmless agreement with the board of education of the city, 69077
local, or exempted village school district within the territory of 69078
which are located the parcels that are subject to an exemption. 69079
For the purposes of this division, a "hold-harmless agreement" 69080
means an agreement under which the board of township trustees 69081
agrees to compensate the school district for one hundred per cent 69082
of the tax revenue that the school district would have received 69083
from further improvements to parcels designated in the resolution 69084
were it not for the exemption granted by the resolution. 69085

(L) With respect to improvements resulting from projects, for 69086
which construction commences on or after April 1, 2012, and on or 69087
before December 31, 2013, and for which an exemption has been or 69088
will be sought pursuant to a resolution adopted under this section 69089
before December 14, 2001, "property used or to be used for 69090
residential purposes," as used in division (A)(2) of this section, 69091
means only that property that, as improved, the tax commissioner 69092
would classify as residential land and improvements pursuant to 69093
rules adopted by the tax commissioner under section 5713.041 of 69094
the Revised Code. 69095

Sec. 5709.75. (A) Any township that receives service payments 69096
in lieu of taxes under section 5709.74 of the Revised Code shall 69097

establish a township public improvement tax increment equivalent 69098
fund into which those payments shall be deposited. If the board of 69099
township trustees has adopted a resolution under division (C) of 69100
section 5709.73 of the Revised Code, the township shall establish 69101
at least one account in that fund with respect to resolutions 69102
adopted under division (B) of that section, and one account with 69103
respect to each incentive district created by a resolution adopted 69104
under division (C) of that section. If a resolution adopted under 69105
division (C) of section 5709.73 of the Revised Code also 69106
authorizes the use of service payments for housing renovations 69107
within the incentive district, the township shall establish 69108
separate accounts for the service payments designated for public 69109
infrastructure improvements and for the service payments 69110
authorized for the purpose of housing renovations. 69111

(B) Except as otherwise provided in division (C) or (D) of 69112
this section, money deposited in an account of the township public 69113
improvement tax increment equivalent fund shall be used by the 69114
township to pay the costs of public infrastructure improvements 69115
designated in or the housing renovations authorized by the 69116
resolution with respect to which the account is established, 69117
including any interest on and principal of the notes; in the case 69118
of an account established with respect to a resolution adopted 69119
under division (C) of that section, money in the account shall be 69120
used to finance the public infrastructure improvements designated, 69121
or the housing renovations authorized, for each incentive district 69122
created in the resolution. Money in an account shall not be used 69123
to finance or support housing renovations that take place after 69124
the incentive district has expired. 69125

(C)(1)(a) A township may distribute money in such an account 69126
to any school district in which the exempt property is located in 69127
an amount not to exceed the amount of real property taxes that 69128
such school district would have received from the improvement if 69129

it were not exempt from taxation. The resolution establishing the fund shall set forth the percentage of such maximum amount that will be distributed to any affected school district.

(b) A township also may distribute money in such an account as follows:

(i) To a board of county commissioners, in the amount that is owed to the board pursuant to division (E) of section 5709.73 of the Revised Code;

(ii) To a county in accordance with section 5709.913 of the Revised Code.

(2) Money from an account in a township public improvement tax increment equivalent fund may be distributed under division (C)(1)(b) of this section, regardless of the date a resolution was adopted under section 5709.73 of the Revised Code that prompted the establishment of the account, even if the resolution was adopted prior to March 30, 2006.

(D) A board of township trustees that adopted a resolution under ~~division (B)~~ of section 5709.73 of the Revised Code before January 1, ~~1995~~ 2011, and that, with respect to property exempted under such a resolution, is party to a hold-harmless or service agreement, may appropriate and expend unencumbered money in the fund to pay current public safety expenses of the township. A township appropriating and expending money under this division shall reimburse the fund for the sum so appropriated and expended not later than the day the exemption granted under the resolution expires. For the purposes of this division, a "hold-harmless 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 one hundred per cent of the tax revenue the school district would have received from improvements to parcels designated in the

resolution were it not for the exemption granted by the 69161
resolution. For the purposes of this division, a "service 69162
agreement" is an agreement with the board of education of a city, 69163
local, or exempted village school district under which the board 69164
of township trustees agrees to compensate the school district for 69165
a portion of the tax revenue the school district would have 69166
received from improvements to parcels designated in the resolution 69167
if not for the exemption granted by the resolution. 69168

(E) Any incidental surplus remaining in the township public 69169
improvement tax increment equivalent fund or an account of that 69170
fund upon dissolution of the account or fund shall be transferred 69171
to the general fund of the township. 69172

Sec. 5713.012. (A) For purposes of this section: 69173

(1) "Mass appraisal project" means any sexennial reappraisal, 69174
triennial update, or other revaluation of all real property or the 69175
valuation of newly constructed real property in accordance with 69176
section 5713.01 of the Revised Code. 69177

(2) "Qualified project manager" means a person who plans, 69178
manages, coordinates, and controls the execution of a mass 69179
appraisal project under the direction of the county auditor and 69180
who has all of the following qualifications: 69181

(a) Has passed a comprehensive final examination that 69182
corresponds to a course, approved by the superintendent of real 69183
estate and professional licensing, that consists of at least 69184
thirty hours of instruction, quizzes, and learning aids. The 69185
superintendent shall not approve a course under this division that 69186
does not address the following topics in both the instruction and 69187
the examination: 69188

(i) Concepts and principles of mass appraisal as they relate 69189
to the assessment of real property for the purposes of ad valorem 69190

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| <u>taxation;</u> | 69191 |
| <u>(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;</u> | 69192 69193 69194 69195 |
| <u>(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;</u> | 69196 69197 69198 69199 |
| <u>(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;</u> | 69200 69201 69202 |
| <u>(v) Methods and systems for model building and model calibration as related to mass appraisal of real property;</u> | 69203 69204 |
| <u>(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.</u> | 69205 69206 69207 69208 69209 |
| <u>(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 during each two-year period thereafter.</u> | 69210 69211 69212 69213 69214 |
| <u>(B)(1) The county auditor, in acting as the assessor of all real property in the auditor's county for taxation purposes in accordance with section 5713.01 of the Revised Code, shall involve at least one qualified project manager in each mass assessment project that originates more than two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly.</u> | 69215 69216 69217 69218 69219 69220 69221 |

(2) The tax commissioner, beginning two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly, shall not approve any contract entered into by the auditor under division (E) of section 5713.01 of the Revised Code, with a person to do all or any part of the work necessary to the performance of the auditor's duties as assessor unless that person designates an officer or employee of that person, with the appropriate credentials, to act as a qualified project manager. 69222
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(3) The tax commissioner, beginning two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly, shall not include any person that has not designated an officer or employee, with the appropriate credentials, to act as a qualified project manager on a list generated by the commissioner for either of the following purposes: 69231
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(a) To assist county auditors in selecting a person to do all or any part of the work necessary to the performance of the auditor's duties as assessor of all real property under section 5713.01 of the Revised Code; 69238
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(b) To assist the commissioner in the consideration of whether to approve or disapprove the auditor's application requesting authority to employ an appraisal firm or individual appraiser. 69242
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Sec. 5719.13. Taxes assessed on the shares of stock of a dealer in intangibles shall be a lien on such shares from the first day of January in each year until they are paid. Each dealer in intangibles shall collect the taxes due from the owners of such shares and pay remit the same to the tax commissioner, who shall accept the remittance on behalf of the treasurer of state. The remittance shall be made payable to the treasurer of state and 69246
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shall be made in the form prescribed by the commissioner. Any 69253
dealer in intangibles who fails to pay said taxes as provided in 69254
this section shall be liable by way of penalty for the gross 69255
amount of the taxes due from all the owners of shares, and for an 69256
additional amount of one hundred dollars for each day of delay in 69257
the payment of said taxes. 69258

A dealer in intangibles who pays ~~to the treasurer of state~~ 69259
the taxes assessed upon its shares in the hands of its 69260
shareholders, as provided in this section, may deduct the amount 69261
thereof from dividends or distributions that are due or thereafter 69262
become due on such shares, and shall have a lien on the shares of 69263
stock and all funds belonging to such shareholders in its 69264
possession, or which come into its possession, for reimbursement 69265
of such tax paid on account of the shareholders, with legal 69266
interest. Such lien may be enforced in any appropriate manner. 69267

Sec. 5725.14. (A) As used in this section and section 5725.15 69268
of the Revised Code: 69269

(1) "Billing address" of a customer means one of the 69270
following: 69271

(a) The customer's address as set forth in any notice, 69272
statement, bill, or similar acknowledgment shall be presumed to be 69273
the address where the customer is located with respect to the 69274
transaction for which the dealer issued the notice, statement, 69275
bill, or acknowledgment. 69276

(b) If the dealer issues any notice, statement, bill, or 69277
similar acknowledgment electronically to an address other than a 69278
street address or post office box address or if the dealer does 69279
not issue such a notice, statement, bill, or acknowledgment, the 69280
customer's street address as set forth in the records of the 69281
dealer at the time of the transaction shall be presumed to be the 69282
address where the customer is located. 69283

(2) "Commissions" includes but is not limited to brokerage 69284
commissions, asset management fees, and similar fees charged in 69285
the regular course of business to a customer for the maintenance 69286
and management of the customer's account. 69287

(3) "Gross receipts" means one of the following: 69288

(a) In the case of a dealer in intangibles principally 69289
engaged in the business of lending money or discounting loans, the 69290
aggregate amount of loans effected or discounted; 69291

(b) In the case of a dealer in intangibles principally 69292
engaged in the business of selling or buying stocks, bonds, or 69293
other similar securities either on the dealer's own account or as 69294
agent for another, the aggregate amount of all commissions 69295
charged. 69296

(B) Each dealer in intangibles shall return to the tax 69297
commissioner between the first and second Mondays of March, 69298
annually for return years prior to 2014, a report exhibiting in 69299
detail, and under appropriate heads, the dealer's resources and 69300
liabilities at the close of business on the thirty-first day of 69301
December next preceding, together with remittance made payable to 69302
the treasurer of state of the tax levied under division (D) of 69303
section 5707.03 of the Revised Code. In the case of an 69304
unincorporated dealer in intangibles, such report shall also 69305
exhibit the amount or value as of the date of conversion of all 69306
property within the year preceding the date of listing, and on or 69307
after the first day of November converted into bonds or other 69308
securities not taxed to the extent such nontaxable bonds or 69309
securities may be shown in the dealer's resources on such date, 69310
without deduction for indebtedness created in the purchase of such 69311
nontaxable bonds or securities. 69312

If a dealer in intangibles maintains separate business 69313
offices, whether within this state only or within and without this 69314

state, the report shall also show the gross receipts from business 69315
done at each such office during the year ending on the 69316
thirty-first day of December next preceding. 69317

For the purposes of this section and section 5725.15 of the 69318
Revised Code, business is considered done at an office when it 69319
originates at such office, but the receipts from business 69320
originating at one office and consummated at another office shall 69321
be divided equitably between such offices. 69322

(C) For the purposes of this section and section 5725.15 of 69323
the Revised Code, in the case of a dealer in intangibles 69324
principally engaged in the business of selling or buying stocks, 69325
bonds, or other similar securities either on the dealer's own 69326
account or as agent for another, the dealer's capital, surplus, 69327
and undivided profits employed in this state shall bear the same 69328
ratio to the dealer's total capital, surplus, and undivided 69329
profits employed everywhere as the amount described in division 69330
(C)(1) of this section bears to the amount described in division 69331
(C)(2) of this section: 69332

(1) The sum of the commissions earned during the year covered 69333
by the ~~report~~ return from transactions with respect to brokerage 69334
accounts owned by customers having billing addresses in this 69335
state; 69336

(2) The sum of the commissions earned during that year from 69337
transactions with respect to brokerage accounts owned by all of 69338
the dealer's customers. 69339

(D) An incorporated dealer in intangibles which owns or 69340
controls fifty-one per cent or more of the common stock of another 69341
incorporated dealer in intangibles may, under uniform regulations 69342
prescribed by the tax commissioner, make a consolidated return for 69343
the purpose of sections 5725.01 to 5725.26, ~~inclusive,~~ of the 69344
Revised Code. In such case the parent corporation making such 69345

return is not required to include in its resources any of the 69346
stocks, securities, or other obligations of its subsidiary 69347
dealers, nor permitted to include in its liabilities any of its 69348
own securities or other obligations belonging to its subsidiaries. 69349

Sec. 5725.15. ~~Upon receiving the~~ The report required by 69350
section 5725.14 of the Revised Code, ~~the tax commissioner~~ shall 69351
~~ascertain and assess~~ include as taxable property all the shares of 69352
~~such dealers~~ the dealer in intangibles, the capital stock of which 69353
is divided into shares, representing capital employed in this 69354
state, and the value of the property representing the capital, not 69355
divided into shares, employed in this state by such dealer in 69356
intangibles, according to the aggregate fair value of the capital, 69357
surplus, and undivided profits as shown in such report, including 69358
in the case of an unincorporated dealer, the value of property 69359
converted into nontaxable bonds or securities within the preceding 69360
year, without deduction for indebtedness created in the purchase 69361
of such nontaxable bonds or securities. 69362

The filing by a dealer of the report required by section 69363
5725.14 of the Revised Code shall be the preliminary assessment of 69364
the shares and property listed therein. 69365

If a dealer has separate offices, whether within this state 69366
only or within and without this state, the ~~commissioner~~ dealer 69367
shall ~~find~~ list the amount of capital employed in each office in 69368
this state, which shall bear the same ratio to the entire capital 69369
of such dealer, wherever employed, as the gross receipts of such 69370
office bears to the entire gross receipts of such dealer, wherever 69371
arising. 69372

The aggregate book value of the capital, surplus, and 69373
undivided profits of a dealer in intangibles as shown in such 69374
report shall be taken as the fair value thereof for the purpose of 69375
the assessment required by this section, unless the commissioner 69376

finds that such book value is greater or less than the then fair value of said capital, surplus, and undivided profits. Claim for any deduction from book value of capital, surplus, and undivided profits must be made in writing by the dealer in intangibles at the time of making ~~his~~ the dealer's return.

Whenever the commissioner assesses the fair value of the capital, surplus, and undivided profits of a dealer in intangibles at an amount in excess of the ~~book~~ value thereof as ~~shown by its report, or disallows any claim for deduction from book value of such capital, surplus, and undivided profits listed in the dealer's report, or assesses the shares or property of a dealer that fails to file a return, he~~ the commissioner shall give notice and proceed as provided in section 5711.31 of the Revised Code.

Sec. 5725.16. On or before the first Monday of May, annually for return years prior to 2014, the tax commissioner shall certify to the treasurer of state the assessment of the shares or property representing capital, or apportionment of either, of each dealer in intangibles doing business in the state, showing separately the amount representing capital employed in each county.

The treasurer of state shall place the amounts certified on the intangible property tax list in ~~his~~ the treasurer of state's office in the names of the dealers represented by those certificates.

~~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. 69408
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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.~~ 69411
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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: 69418
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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 report is filed. 69421
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(2) If a dealer in intangibles fails to pay any amounts of the tax levied by division (D) of section 5707.03 of the Revised Code by the dates prescribed for payment, a penalty shall be imposed equal to the greater of the penalty due under division ~~(C)~~(F) of section 5725.22 of the Revised Code, for which this penalty shall be a substitute, or two times the interest charged under section 5725.221 of the Revised Code for the delinquent payment. 69431
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(3) If a dealer in intangibles submits a report required by 69439
section 5725.14 of the Revised Code that is marked, defaced, or 69440
otherwise designed by the dealer to be a frivolous protest or an 69441
attempt to delay or impede the administration of the tax levied by 69442
division (D) of section 5707.03 of the Revised Code, a penalty 69443
shall be imposed equal to the greater of one hundred dollars or 69444
twenty-five per cent of the tax required to be shown on the 69445
report. 69446

(4) If a dealer in intangibles makes a fraudulent attempt to 69447
evade the reporting or payment of the tax levied by division (D) 69448
of section 5707.03 of the Revised Code, a penalty shall be imposed 69449
equal to the greater of one thousand dollars or one hundred per 69450
cent of the tax required to be shown on the report required by 69451
section 5725.14 of the Revised Code. 69452

(5) If any person makes a false or fraudulent claim for 69453
abatement or refund of the tax levied by division (D) of section 69454
5707.03 of the Revised Code, a penalty shall be imposed equal to 69455
the greater of one thousand dollars or one hundred per cent of the 69456
claim. The penalty imposed by this division, any abatement or 69457
refund on the claim, and interest on any refund from the date of 69458
the refund, may be assessed under section 5725.15 of the Revised 69459
Code or added by the ~~treasurer of state~~ tax commissioner as tax, 69460
penalty, and interest due from the tax levied by division (D) of 69461
section 5707.03 of the Revised Code, without regard to whether the 69462
person making the claim is otherwise subject to the tax, and 69463
without regard to any time limitation for assessment. 69464

(B) Each penalty imposed under division (A) of this section 69465
shall be in addition to any other penalty imposed under that 69466
division. All or part of any penalty imposed under division (A) of 69467
this section may be abated by the commissioner ~~or the treasurer of~~ 69468
~~state, as appropriate.~~ 69469

Sec. 5725.22. (A) The treasurer of state shall maintain an 69470
intangible property tax list of taxes levied by section 5707.03 of 69471
the Revised Code and certified by the tax commissioner pursuant to 69472
sections 5711.13, 5725.08, 5725.16, and 5727.15 of the Revised 69473
Code, and a separate list of taxes levied by section 5725.18 of 69474
the Revised Code and certified by the superintendent of insurance 69475
pursuant to section 5725.20 of the Revised Code. ~~Upon receipt of~~ 69476
~~any assessment certified to him~~ 69477

(B)(1) With respect to taxes levied under section 5725.18 of 69478
the Revised Code, the treasurer of state, upon receipt of an 69479
assessment, shall compute the taxes at the rates prescribed by law 69480
and enter the taxes on the proper tax list. ~~He~~ The treasurer shall 69481
collect, and the taxpayer shall pay, all such taxes and any 69482
interest applicable thereto. Payments may be made by mail, in 69483
person, or by any other means authorized by the treasurer of ~~of~~ 69484
~~state.~~ The treasurer ~~of state~~ shall render a daily itemized 69485
statement to the ~~tax commissioner~~ superintendent of insurance of 69486
the amount of taxes collected and the name of the domestic 69487
insurance company ~~or assessment certificate number of the person~~ 69488
from whom collected. The treasurer of state may adopt rules 69489
concerning the methods and timeliness of ~~payment~~ payments under 69490
this division. 69491

(2) With respect to taxes levied under section 5707.03 of the 69492
Revised Code, any assessment certified to the treasurer of state 69493
shall reflect the taxes computed at the rates prescribed by law. 69494
Upon receipt of such an assessment, the treasurer shall enter the 69495
taxes on the proper tax list. The tax commissioner shall collect, 69496
and the taxpayer shall pay, all such taxes and any interest 69497
applicable thereto. Payments may be made by mail, in person, or by 69498
any other means authorized by the commissioner. The commissioner 69499
shall immediately forward to the treasurer any payments received 69500
under this division, together with any information necessary for 69501

the treasurer to properly credit such payments. The commissioner 69502
may adopt rules concerning the method and timeliness of payments 69503
under this division. 69504

(C) Each tax bill issued pursuant to this section shall 69505
separately reflect the taxes due, interest, if any, due date, and 69506
any other information considered necessary. The last day on which 69507
payment may be made without penalty shall be at least twenty but 69508
not more than thirty days from the date of mailing the tax bill. 69509
The treasurer of state or tax commissioner, as appropriate, shall 69510
mail the tax bill, and the mailing thereof shall be prima-facie 69511
evidence of receipt thereof by the taxpayer. 69512

The treasurer ~~of state~~ or commissioner, as appropriate, shall 69513
refund taxes as provided in this section, but no refund shall be 69514
made to a taxpayer having a delinquent claim certified pursuant to 69515
this section that remains unpaid. The treasurer ~~of state~~ or 69516
commissioner may consult the attorney general regarding such 69517
claims. Refunds shall be paid from the tax refund fund created by 69518
section 5703.052 of the Revised Code. 69519

~~(A)~~(D)(1) Within twenty days after receipt of any preliminary 69520
assessment ~~certified to him~~ of taxes levied under section 5725.18 69521
of the Revised Code, the treasurer of state shall issue a tax 69522
bill, but if such preliminary assessment reflects a late filed tax 69523
return, the treasurer of state shall add interest as provided in 69524
division (A) of section 5725.221 of the Revised Code and issue a 69525
tax bill. 69526

~~(B)~~(2) Within twenty days after receipt of any amended or 69527
final assessment ~~certified to him~~ of taxes levied under section 69528
5725.18 of the Revised Code, the treasurer of state shall 69529
ascertain the difference between the total taxes computed on such 69530
assessment and the total taxes computed on the most recent 69531
assessment certified for the same tax year. If the difference is a 69532
deficiency, the treasurer of state shall add interest as provided 69533

in division (B)(1) of section 5725.221 of the Revised Code and 69534
issue a tax bill. If the difference is an excess, the treasurer of 69535
state shall add interest as provided in division (B)(2) of section 69536
5725.221 of the Revised Code and certify the name of the taxpayer 69537
and the amount to be refunded to the director of budget and 69538
management for payment to the taxpayer. If the taxpayer has a 69539
deficiency for one tax year and an excess for another tax year, or 69540
any combination thereof for more than two tax years, the treasurer 69541
of state may determine the net result after adding interest, if 69542
applicable, and, depending on such result, proceed to mail a tax 69543
bill or certify a refund. 69544

(C)(E)(1) Except as provided in division (E)(2) of this 69545
section, within twenty days after certifying to the treasurer of 69546
state an amended or final assessment, or a preliminary assessment 69547
of a dealer in intangibles that has failed to file a report or 69548
disclose taxable property, the tax commissioner shall ascertain 69549
the difference between the total taxes computed on such assessment 69550
and the total taxes computed on the most recent assessment 69551
certified for the same tax year, if any. If the difference is a 69552
deficiency, the commissioner shall add interest as provided in 69553
division (B)(1) of section 5725.221 of the Revised Code and issue 69554
a tax bill. If the difference is an excess, the commissioner shall 69555
add interest as provided in division (B)(2) of section 5725.221 of 69556
the Revised Code and certify the name of the taxpayer and the 69557
amount to be refunded to the director of budget and management for 69558
payment to the taxpayer. If the taxpayer has a deficiency for one 69559
tax year and excess for another tax year, or any combination 69560
thereof for more than two tax years, the commissioner may 69561
determine the net result after adding interest, if applicable, 69562
and, depending on such result, proceed to mail a tax bill or 69563
certify a refund. 69564

(2) The tax commissioner may issue a tax bill for any 69565

deficiency resulting from an assessment at the time the 69566
commissioner issues the assessment. 69567

(F) If a taxpayer fails to pay all taxes and interest, if 69568
any, on or before the due date shown on the tax bill but makes 69569
payment within ten calendar days of such date, the treasurer of 69570
state or tax commissioner, as appropriate, shall add a penalty 69571
equal to five per cent of the taxes due. If payment is not made 69572
within ten days of such date, the treasurer ~~of state or~~ 69573
commissioner shall add a penalty equal to ten per cent of the 69574
taxes due. The treasurer ~~of state or commissioner~~ shall prepare a 69575
delinquent claim for each tax bill on which penalties were added 69576
and certify such claims to the attorney general for collection. 69577
The attorney general shall transmit a copy of each claim certified 69578
by the treasurer to the ~~tax commissioner or the~~ superintendent of 69579
insurance ~~and~~. For each claim certified by the treasurer or 69580
commissioner, the attorney general shall proceed to collect the 69581
delinquent taxes, penalties, and interest thereon in the manner 69582
prescribed by law. 69583

Sec. 5725.221. For the purposes of this section, interest 69584
shall be computed at a rate per calendar month, rounded to the 69585
nearest one-hundredth of one per cent, equal to one-twelfth of the 69586
rate per annum prescribed by section 5703.47 of the Revised Code 69587
for the calendar year that includes the month for which the 69588
interest accrues. 69589

(A) When taxes levied by section 3737.71, 5707.03, or 5725.18 69590
of the Revised Code are assessed as the result of a tax return 69591
being filed late, the treasurer of state or tax commissioner, as 69592
appropriate, shall add interest to the taxes due. The interest 69593
shall accrue from the first day of the month following the last 69594
day on which such taxes were required to be paid, had the 69595
assessment been certified by the date prescribed, to the last day 69596

of the month preceding the date on which the assessment was 69597
certified, and shall be computed on the taxes due. 69598

(B) If an assessment has been certified pursuant to section 69599
5711.13, 5725.08, 5725.16, 5725.20, or 5725.222 of the Revised 69600
Code and an amended or final assessment is certified for the same 69601
taxpayer and the same tax year, the treasurer of state or tax 69602
commissioner, as appropriate, shall add interest to the deficiency 69603
or excess. The interest shall be computed on the excess or 69604
deficiency, and shall be accrued in the following manner: 69605

(1) On a deficiency, interest shall accrue from the first day 69606
of the month following the last day on which the previous 69607
assessment was required to be paid, to the last day of the month 69608
preceding the date on which the amended or final assessment is 69609
certified; 69610

(2) On an excess, interest shall be allowed from the first 69611
day of the month following the date of payment of the previous 69612
assessment, to the last day of the month preceding the date on 69613
which the amended or final assessment is certified. 69614

Sec. 5731.39. (A) No corporation organized or existing under 69615
the laws of this state shall transfer on its books or issue a new 69616
certificate for any share of its capital stock registered in the 69617
name of a decedent, or in trust for a decedent, or in the name of 69618
a decedent and another person or persons, without the written 69619
consent of the tax commissioner. 69620

(B) No safe deposit company, trust company, financial 69621
institution as defined in division (A) of section 5725.01 of the 69622
Revised Code or other corporation or person, having in possession, 69623
control, or custody a deposit standing in the name of a decedent, 69624
or in trust for a decedent, or in the name of a decedent and 69625
another person or persons, shall deliver or transfer an amount in 69626
excess of three-fourths of the total value of such deposit, 69627

including accrued interest and dividends, as of the date of 69628
decedent's death, without the written consent of the tax 69629
commissioner. The written consent of the tax commissioner need not 69630
be obtained prior to the delivery or transfer of amounts having a 69631
value of three-fourths or less of said total value. 69632

(C) No life insurance company shall pay the proceeds of an 69633
annuity or matured endowment contract, or of a life insurance 69634
contract payable to the estate of a decedent, or of any other 69635
insurance contract taxable under Chapter 5731. of the Revised 69636
Code, without the written consent of the tax commissioner. Any 69637
life insurance company may pay the proceeds of any insurance 69638
contract not specified in this division (C) without the written 69639
consent of the tax commissioner. 69640

(D) No trust company or other corporation or person shall pay 69641
the proceeds of any death benefit, retirement, pension or profit 69642
sharing plan in excess of two thousand dollars, without the 69643
written consent of the tax commissioner. Such trust company or 69644
other corporation or person, however, may pay the proceeds of any 69645
death benefit, retirement, pension, or profit-sharing plan which 69646
consists of insurance on the life of the decedent payable to a 69647
beneficiary other than the estate of the insured without the 69648
written consent of the tax commissioner. 69649

(E) No safe deposit company, trust company, financial 69650
institution as defined in division (A) of section 5725.01 of the 69651
Revised Code, or other corporation or person, having in 69652
possession, control, or custody securities, assets, or other 69653
property (including the shares of the capital stock of, or other 69654
interest in, such safe deposit company, trust company, financial 69655
institution as defined in division (A) of section 5725.01 of the 69656
Revised Code, or other corporation), standing in the name of a 69657
decedent, or in trust for a decedent, or in the name of a decedent 69658
and another person or persons, and the transfer of which is 69659

taxable under Chapter 5731. of the Revised Code, shall deliver or 69660
transfer any such securities, assets, or other property which have 69661
a value as of the date of decedent's death in excess of 69662
three-fourths of the total value thereof, without the written 69663
consent of the tax commissioner. The written consent of the tax 69664
commissioner need not be obtained prior to the delivery or 69665
transfer of any such securities, assets, or other property having 69666
a value of three-fourths or less of said total value. 69667

(F) No safe deposit company, financial institution as defined 69668
in division (A) of section 5725.01 of the Revised Code, or other 69669
corporation or person having possession or control of a safe 69670
deposit box or similar receptacle standing in the name of a 69671
decedent or in the name of the decedent and another person or 69672
persons, or to which the decedent had a right of access, except 69673
when such safe deposit box or other receptacle stands in the name 69674
of a corporation or partnership, or in the name of the decedent as 69675
guardian or executor, shall deliver any of the contents thereof 69676
unless the safe deposit box or similar receptacle has been opened 69677
and inventoried in the presence of the tax commissioner or the 69678
commissioner's agent, and a written consent to transfer issued; 69679
provided, however, that a safe deposit company, financial 69680
institution, or other corporation or person having possession or 69681
control of a safe deposit box may deliver wills, deeds to burial 69682
lots, and insurance policies to a representative of the decedent, 69683
but that a representative of the safe deposit company, financial 69684
institution, or other corporation or person must supervise the 69685
opening of the box and make a written record of the wills, deeds, 69686
and policies removed. Such written record shall be included in the 69687
tax commissioner's inventory records. 69688

(G) Notwithstanding any provision of this section: 69689

(1) The tax commissioner may authorize any delivery or 69690
transfer or waive any of the foregoing requirements under such 69691

terms and conditions as the commissioner may prescribe; 69692

(2) ~~An adult care facility, as defined in section 5119.70 of~~ 69693
~~the Revised Code, or a A home, as defined in section 3721.10 of~~ 69694
the Revised Code, or a residential facility licensed under section 69695
5119.22 of the Revised Code that provides accommodations, 69696
supervision, and personal care services for three to sixteen 69697
unrelated adults, may transfer or use the money in a personal 69698
needs allowance account in accordance with section 5111.113 of the 69699
Revised Code without the written consent of the tax commissioner, 69700
and without the account having been opened and inventoried in the 69701
presence of the commissioner or the commissioner's agent. 69702

Failure to comply with this section shall render such safe 69703
deposit company, trust company, life insurance company, financial 69704
institution as defined in division (A) of section 5725.01 of the 69705
Revised Code, or other corporation or person liable for the amount 69706
of the taxes and interest due under the provisions of Chapter 69707
5731. of the Revised Code on the transfer of such stock, deposit, 69708
proceeds of an annuity or matured endowment contract or of a life 69709
insurance contract payable to the estate of a decedent, or other 69710
insurance contract taxable under Chapter 5731. of the Revised 69711
Code, proceeds of any death benefit, retirement, pension, or 69712
profit sharing plan in excess of two thousand dollars, or 69713
securities, assets, or other property of any resident decedent, 69714
and in addition thereto, to a penalty of not less than five 69715
hundred or more than five thousand dollars. 69716

Sec. 5733.064. There is hereby allowed a credit against the 69717
tax imposed under sections 5733.06, 5733.065, and 5733.066 of the 69718
Revised Code. The credit shall equal the lesser of fifty per cent 69719
of any cash donations made during the taxable year by the taxpayer 69720
to an Ohio corporation organized prior to January 1, 1987, whose 69721
sole purpose is to promote and encourage recycling and that has 69722

been determined by the internal revenue service to be a nonprofit 69723
corporation regardless of whether the nonprofit corporation 69724
received a grant under section ~~1502.05~~ 3736.05 of the Revised 69725
Code, or to municipal corporations, counties, townships, park 69726
districts, and boards of education that received grants pursuant 69727
to that section, or one-half of the amount of the taxpayer's 69728
additional tax liability for the tax year resulting from the 69729
additional rates imposed by sections 5733.065 and 5733.066 of the 69730
Revised Code to provide funding for ~~the division of~~ recycling and 69731
litter prevention under Chapter ~~1502-~~ 3736. of the Revised Code. 69732
The taxpayer shall claim the nonrefundable credit in the order 69733
required under section 5733.98 of the Revised Code. 69734

The tax commissioner may require the taxpayer to furnish such 69735
information as is necessary to support a claim for a credit under 69736
this section, and no credit shall be allowed unless the 69737
information is provided. 69738

Sec. 5739.01. As used in this chapter: 69739

(A) "Person" includes individuals, receivers, assignees, 69740
trustees in bankruptcy, estates, firms, partnerships, 69741
associations, joint-stock companies, joint ventures, clubs, 69742
societies, corporations, the state and its political subdivisions, 69743
and combinations of individuals of any form. 69744

(B) "Sale" and "selling" include all of the following 69745
transactions for a consideration in any manner, whether absolutely 69746
or conditionally, whether for a price or rental, in money or by 69747
exchange, and by any means whatsoever: 69748

(1) All transactions by which title or possession, or both, 69749
of tangible personal property, is or is to be transferred, or a 69750
license to use or consume tangible personal property is or is to 69751
be granted; 69752

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| (2) All transactions by which lodging by a hotel is or is to be furnished to transient guests; | 69753 69754 |
| (3) All transactions by which: | 69755 |
| (a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code; | 69756 69757 69758 |
| (b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service; | 69759 69760 69761 69762 69763 69764 |
| (c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished; | 69765 69766 |
| (d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided; | 69767 69768 69769 |
| (e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty | 69770 69771 69772 69773 69774 69775 69776 69777 69778 69779 69780 69781 69782 69783 |

per cent of the other corporation's common stock with voting rights. 69784
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(f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but not including coin-operated telephone service; 69786
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(g) Landscaping and lawn care service is or is to be provided; 69790
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(h) Private investigation and security service is or is to be provided; 69792
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(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call; 69794
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(j) Building maintenance and janitorial service is or is to be provided; 69796
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(k) Employment service is or is to be provided; 69798

(l) Employment placement service is or is to be provided; 69799

(m) Exterminating service is or is to be provided; 69800

(n) Physical fitness facility service is or is to be provided; 69801
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(o) Recreation and sports club service is or is to be provided; 69803
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(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided; 69805
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(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the 69807
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order of a licensed physician or licensed chiropractor, or the 69813
cutting, coloring, or styling of an individual's hair. 69814

(r) On and after August 1, 2003, the transportation of 69815
persons by motor vehicle or aircraft is or is to be provided, when 69816
the transportation is entirely within this state, except for 69817
transportation provided by an ambulance service, by a transit bus, 69818
as defined in section 5735.01 of the Revised Code, and 69819
transportation provided by a citizen of the United States holding 69820
a certificate of public convenience and necessity issued under 49 69821
U.S.C. 41102; 69822

(s) On and after August 1, 2003, motor vehicle towing service 69823
is or is to be provided. As used in this division, "motor vehicle 69824
towing service" means the towing or conveyance of a wrecked, 69825
disabled, or illegally parked motor vehicle. 69826

(t) On and after August 1, 2003, snow removal service is or 69827
is to be provided. As used in this division, "snow removal 69828
service" means the removal of snow by any mechanized means, but 69829
does not include the providing of such service by a person that 69830
has less than five thousand dollars in sales of such service 69831
during the calendar year. 69832

(u) Electronic publishing service is or is to be provided to 69833
a consumer for use in business, except that such transactions 69834
occurring between members of an affiliated group, as defined in 69835
division (B)(3)(e) of this section, are not sales. 69836

(4) All transactions by which printed, imprinted, 69837
overprinted, lithographic, multilithic, blueprinted, photostatic, 69838
or other productions or reproductions of written or graphic matter 69839
are or are to be furnished or transferred; 69840

(5) The production or fabrication of tangible personal 69841
property for a consideration for consumers who furnish either 69842
directly or indirectly the materials used in the production of 69843

fabrication work; and include the furnishing, preparing, or 69844
serving for a consideration of any tangible personal property 69845
consumed on the premises of the person furnishing, preparing, or 69846
serving such tangible personal property. Except as provided in 69847
section 5739.03 of the Revised Code, a construction contract 69848
pursuant to which tangible personal property is or is to be 69849
incorporated into a structure or improvement on and becoming a 69850
part of real property is not a sale of such tangible personal 69851
property. The construction contractor is the consumer of such 69852
tangible personal property, provided that the sale and 69853
installation of carpeting, the sale and installation of 69854
agricultural land tile, the sale and erection or installation of 69855
portable grain bins, or the provision of landscaping and lawn care 69856
service and the transfer of property as part of such service is 69857
never a construction contract. 69858

As used in division (B)(5) of this section: 69859

(a) "Agricultural land tile" means fired clay or concrete 69860
tile, or flexible or rigid perforated plastic pipe or tubing, 69861
incorporated or to be incorporated into a subsurface drainage 69862
system appurtenant to land used or to be used primarily in 69863
production by farming, agriculture, horticulture, or floriculture. 69864
The term does not include such materials when they are or are to 69865
be incorporated into a drainage system appurtenant to a building 69866
or structure even if the building or structure is used or to be 69867
used in such production. 69868

(b) "Portable grain bin" means a structure that is used or to 69869
be used by a person engaged in farming or agriculture to shelter 69870
the person's grain and that is designed to be disassembled without 69871
significant damage to its component parts. 69872

(6) All transactions in which all of the shares of stock of a 69873
closely held corporation are transferred, if the corporation is 69874
not engaging in business and its entire assets consist of boats, 69875

planes, motor vehicles, or other tangible personal property 69876
operated primarily for the use and enjoyment of the shareholders; 69877

(7) All transactions in which a warranty, maintenance or 69878
service contract, or similar agreement by which the vendor of the 69879
warranty, contract, or agreement agrees to repair or maintain the 69880
tangible personal property of the consumer is or is to be 69881
provided; 69882

(8) The transfer of copyrighted motion picture films used 69883
solely for advertising purposes, except that the transfer of such 69884
films for exhibition purposes is not a sale; 69885

(9) On and after August 1, 2003, all transactions by which 69886
tangible personal property is or is to be stored, except such 69887
property that the consumer of the storage holds for sale in the 69888
regular course of business; 69889

(10) All transactions in which "guaranteed auto protection" 69890
is provided whereby a person promises to pay to the consumer the 69891
difference between the amount the consumer receives from motor 69892
vehicle insurance and the amount the consumer owes to a person 69893
holding title to or a lien on the consumer's motor vehicle in the 69894
event the consumer's motor vehicle suffers a total loss under the 69895
terms of the motor vehicle insurance policy or is stolen and not 69896
recovered, if the protection and its price are included in the 69897
purchase or lease agreement; 69898

(11)(a) Except as provided in division (B)(11)(b) of this 69899
section, on and after October 1, 2009, all transactions by which 69900
health care services are paid for, reimbursed, provided, 69901
delivered, arranged for, or otherwise made available by a medicaid 69902
health insuring corporation pursuant to the corporation's contract 69903
with the state. 69904

(b) If the centers for medicare and medicaid services of the 69905
United States department of health and human services determines 69906

that the taxation of transactions described in division (B)(11)(a) 69907
of this section constitutes an impermissible health care-related 69908
tax under section 1903(w) of the "Social Security Act," 49 Stat. 69909
620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations 69910
adopted thereunder, the director of job and family services shall 69911
notify the tax commissioner of that determination. Beginning with 69912
the first day of the month following that notification, the 69913
transactions described in division (B)(11)(a) of this section are 69914
not sales for the purposes of this chapter or Chapter 5741. of the 69915
Revised Code. The tax commissioner shall order that the collection 69916
of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 69917
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code 69918
shall cease for transactions occurring on or after that date. 69919

Except as provided in this section, "sale" and "selling" do 69920
not include transfers of interest in leased property where the 69921
original lessee and the terms of the original lease agreement 69922
remain unchanged, or professional, insurance, or personal service 69923
transactions that involve the transfer of tangible personal 69924
property as an inconsequential element, for which no separate 69925
charges are made. 69926

(C) "Vendor" means the person providing the service or by 69927
whom the transfer effected or license given by a sale is or is to 69928
be made or given and, for sales described in division (B)(3)(i) of 69929
this section, the telecommunications service vendor that provides 69930
the nine hundred telephone service; if two or more persons are 69931
engaged in business at the same place of business under a single 69932
trade name in which all collections on account of sales by each 69933
are made, such persons shall constitute a single vendor. 69934

Physicians, dentists, hospitals, and veterinarians who are 69935
engaged in selling tangible personal property as received from 69936
others, such as eyeglasses, mouthwashes, dentifrices, or similar 69937
articles, are vendors. Veterinarians who are engaged in 69938

transferring to others for a consideration drugs, the dispensing 69939
of which does not require an order of a licensed veterinarian or 69940
physician under federal law, are vendors. 69941

(D)(1) "Consumer" means the person for whom the service is 69942
provided, to whom the transfer effected or license given by a sale 69943
is or is to be made or given, to whom the service described in 69944
division (B)(3)(f) or (i) of this section is charged, or to whom 69945
the admission is granted. 69946

(2) Physicians, dentists, hospitals, and blood banks operated 69947
by nonprofit institutions and persons licensed to practice 69948
veterinary medicine, surgery, and dentistry are consumers of all 69949
tangible personal property and services purchased by them in 69950
connection with the practice of medicine, dentistry, the rendition 69951
of hospital or blood bank service, or the practice of veterinary 69952
medicine, surgery, and dentistry. In addition to being consumers 69953
of drugs administered by them or by their assistants according to 69954
their direction, veterinarians also are consumers of drugs that 69955
under federal law may be dispensed only by or upon the order of a 69956
licensed veterinarian or physician, when transferred by them to 69957
others for a consideration to provide treatment to animals as 69958
directed by the veterinarian. 69959

(3) A person who performs a facility management, or similar 69960
service contract for a contractee is a consumer of all tangible 69961
personal property and services purchased for use in connection 69962
with the performance of such contract, regardless of whether title 69963
to any such property vests in the contractee. The purchase of such 69964
property and services is not subject to the exception for resale 69965
under division (E)(1) of this section. 69966

(4)(a) In the case of a person who purchases printed matter 69967
for the purpose of distributing it or having it distributed to the 69968
public or to a designated segment of the public, free of charge, 69969
that person is the consumer of that printed matter, and the 69970

purchase of that printed matter for that purpose is a sale. 69971

(b) In the case of a person who produces, rather than 69972
purchases, printed matter for the purpose of distributing it or 69973
having it distributed to the public or to a designated segment of 69974
the public, free of charge, that person is the consumer of all 69975
tangible personal property and services purchased for use or 69976
consumption in the production of that printed matter. That person 69977
is not entitled to claim exemption under division (B)(42)(f) of 69978
section 5739.02 of the Revised Code for any material incorporated 69979
into the printed matter or any equipment, supplies, or services 69980
primarily used to produce the printed matter. 69981

(c) The distribution of printed matter to the public or to a 69982
designated segment of the public, free of charge, is not a sale to 69983
the members of the public to whom the printed matter is 69984
distributed or to any persons who purchase space in the printed 69985
matter for advertising or other purposes. 69986

(5) A person who makes sales of any of the services listed in 69987
division (B)(3) of this section is the consumer of any tangible 69988
personal property used in performing the service. The purchase of 69989
that property is not subject to the resale exception under 69990
division (E)(1) of this section. 69991

(6) A person who engages in highway transportation for hire 69992
is the consumer of all packaging materials purchased by that 69993
person and used in performing the service, except for packaging 69994
materials sold by such person in a transaction separate from the 69995
service. 69996

(7) In the case of a transaction for health care services 69997
under division (B)(11) of this section, a medicaid health insuring 69998
corporation is the consumer of such services. The purchase of such 69999
services by a medicaid health insuring corporation is not subject 70000
to the exception for resale under division (E)(1) of this section 70001

or to the exemptions provided under divisions (B)(12), (18), (19), 70002
and (22) of section 5739.02 of the Revised Code. 70003

(E) "Retail sale" and "sales at retail" include all sales, 70004
except those in which the purpose of the consumer is to resell the 70005
thing transferred or benefit of the service provided, by a person 70006
engaging in business, in the form in which the same is, or is to 70007
be, received by the person. 70008

(F) "Business" includes any activity engaged in by any person 70009
with the object of gain, benefit, or advantage, either direct or 70010
indirect. "Business" does not include the activity of a person in 70011
managing and investing the person's own funds. 70012

(G) "Engaging in business" means commencing, conducting, or 70013
continuing in business, and liquidating a business when the 70014
liquidator thereof holds itself out to the public as conducting 70015
such business. Making a casual sale is not engaging in business. 70016

(H)(1)(a) "Price," except as provided in divisions (H)(2), 70017
(3), and (4) of this section, means the total amount of 70018
consideration, including cash, credit, property, and services, for 70019
which tangible personal property or services are sold, leased, or 70020
rented, valued in money, whether received in money or otherwise, 70021
without any deduction for any of the following: 70022

(i) The vendor's cost of the property sold; 70023

(ii) The cost of materials used, labor or service costs, 70024
interest, losses, all costs of transportation to the vendor, all 70025
taxes imposed on the vendor, including the tax imposed under 70026
Chapter 5751. of the Revised Code, and any other expense of the 70027
vendor; 70028

(iii) Charges by the vendor for any services necessary to 70029
complete the sale; 70030

(iv) On and after August 1, 2003, delivery charges. As used 70031

in this division, "delivery charges" means charges by the vendor 70032
for preparation and delivery to a location designated by the 70033
consumer of tangible personal property or a service, including 70034
transportation, shipping, postage, handling, crating, and packing. 70035

(v) Installation charges; 70036

(vi) Credit for any trade-in. 70037

(b) "Price" includes consideration received by the vendor 70038
from a third party, if the vendor actually receives the 70039
consideration from a party other than the consumer, and the 70040
consideration is directly related to a price reduction or discount 70041
on the sale; the vendor has an obligation to pass the price 70042
reduction or discount through to the consumer; the amount of the 70043
consideration attributable to the sale is fixed and determinable 70044
by the vendor at the time of the sale of the item to the consumer; 70045
and one of the following criteria is met: 70046

(i) The consumer presents a coupon, certificate, or other 70047
document to the vendor to claim a price reduction or discount 70048
where the coupon, certificate, or document is authorized, 70049
distributed, or granted by a third party with the understanding 70050
that the third party will reimburse any vendor to whom the coupon, 70051
certificate, or document is presented; 70052

(ii) The consumer identifies the consumer's self to the 70053
seller as a member of a group or organization entitled to a price 70054
reduction or discount. A preferred customer card that is available 70055
to any patron does not constitute membership in such a group or 70056
organization. 70057

(iii) The price reduction or discount is identified as a 70058
third party price reduction or discount on the invoice received by 70059
the consumer, or on a coupon, certificate, or other document 70060
presented by the consumer. 70061

(c) "Price" does not include any of the following: 70062

(i) Discounts, including cash, term, or coupons that are not 70063
reimbursed by a third party that are allowed by a vendor and taken 70064
by a consumer on a sale; 70065

(ii) Interest, financing, and carrying charges from credit 70066
extended on the sale of tangible personal property or services, if 70067
the amount is separately stated on the invoice, bill of sale, or 70068
similar document given to the purchaser; 70069

(iii) Any taxes legally imposed directly on the consumer that 70070
are separately stated on the invoice, bill of sale, or similar 70071
document given to the consumer. For the purpose of this division, 70072
the tax imposed under Chapter 5751. of the Revised Code is not a 70073
tax directly on the consumer, even if the tax or a portion thereof 70074
is separately stated. 70075

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 70076
section, any discount allowed by an automobile manufacturer to its 70077
employee, or to the employee of a supplier, on the purchase of a 70078
new motor vehicle from a new motor vehicle dealer in this state. 70079

(v) The dollar value of a gift card that is not sold by a 70080
vendor or purchased by a consumer and that is redeemed by the 70081
consumer in purchasing tangible personal property or services if 70082
the vendor is not reimbursed and does not receive compensation 70083
from a third party to cover all or part of the gift card value. 70084
For the purposes of this division, a gift card is not sold by a 70085
vendor or purchased by a consumer if it is distributed pursuant to 70086
an awards, loyalty, or promotional program. Past and present 70087
purchases of tangible personal property or services by the 70088
consumer shall not be treated as consideration exchanged for a 70089
gift card. 70090

(2) In the case of a sale of any new motor vehicle by a new 70091
motor vehicle dealer, as defined in section 4517.01 of the Revised 70092
Code, in which another motor vehicle is accepted by the dealer as 70093

part of the consideration received, "price" has the same meaning 70094
as in division (H)(1) of this section, reduced by the credit 70095
afforded the consumer by the dealer for the motor vehicle received 70096
in trade. 70097

(3) In the case of a sale of any watercraft or outboard motor 70098
by a watercraft dealer licensed in accordance with section 70099
1547.543 of the Revised Code, in which another watercraft, 70100
watercraft and trailer, or outboard motor is accepted by the 70101
dealer as part of the consideration received, "price" has the same 70102
meaning as in division (H)(1) of this section, reduced by the 70103
credit afforded the consumer by the dealer for the watercraft, 70104
watercraft and trailer, or outboard motor received in trade. As 70105
used in this division, "watercraft" includes an outdrive unit 70106
attached to the watercraft. 70107

(4) In the case of transactions for health care services 70108
under division (B)(11) of this section, "price" means the amount 70109
of managed care premiums received each month by a medicaid health 70110
insuring corporation. 70111

(I) "Receipts" means the total amount of the prices of the 70112
sales of vendors, provided that the dollar value of gift cards 70113
distributed pursuant to an awards, loyalty, or promotional 70114
program, and cash discounts allowed and taken on sales at the time 70115
they are consummated are not included, minus any amount deducted 70116
as a bad debt pursuant to section 5739.121 of the Revised Code. 70117
"Receipts" does not include the sale price of property returned or 70118
services rejected by consumers when the full sale price and tax 70119
are refunded either in cash or by credit. 70120

(J) "Place of business" means any location at which a person 70121
engages in business. 70122

(K) "Premises" includes any real property or portion thereof 70123
upon which any person engages in selling tangible personal 70124

property at retail or making retail sales and also includes any 70125
real property or portion thereof designated for, or devoted to, 70126
use in conjunction with the business engaged in by such person. 70127

(L) "Casual sale" means a sale of an item of tangible 70128
personal property that was obtained by the person making the sale, 70129
through purchase or otherwise, for the person's own use and was 70130
previously subject to any state's taxing jurisdiction on its sale 70131
or use, and includes such items acquired for the seller's use that 70132
are sold by an auctioneer employed directly by the person for such 70133
purpose, provided the location of such sales is not the 70134
auctioneer's permanent place of business. As used in this 70135
division, "permanent place of business" includes any location 70136
where such auctioneer has conducted more than two auctions during 70137
the year. 70138

(M) "Hotel" means every establishment kept, used, maintained, 70139
advertised, or held out to the public to be a place where sleeping 70140
accommodations are offered to guests, in which five or more rooms 70141
are used for the accommodation of such guests, whether the rooms 70142
are in one or several structures, except as otherwise provided in 70143
division (G) of section 5739.09 of the Revised Code. 70144

(N) "Transient guests" means persons occupying a room or 70145
rooms for sleeping accommodations for less than thirty consecutive 70146
days. 70147

(O) "Making retail sales" means the effecting of transactions 70148
wherein one party is obligated to pay the price and the other 70149
party is obligated to provide a service or to transfer title to or 70150
possession of the item sold. "Making retail sales" does not 70151
include the preliminary acts of promoting or soliciting the retail 70152
sales, other than the distribution of printed matter which 70153
displays or describes and prices the item offered for sale, nor 70154
does it include delivery of a predetermined quantity of tangible 70155
personal property or transportation of property or personnel to or 70156

from a place where a service is performed, regardless of whether 70157
the vendor is a delivery vendor. 70158

(P) "Used directly in the rendition of a public utility 70159
service" means that property that is to be incorporated into and 70160
will become a part of the consumer's production, transmission, 70161
transportation, or distribution system and that retains its 70162
classification as tangible personal property after such 70163
incorporation; fuel or power used in the production, transmission, 70164
transportation, or distribution system; and tangible personal 70165
property used in the repair and maintenance of the production, 70166
transmission, transportation, or distribution system, including 70167
only such motor vehicles as are specially designed and equipped 70168
for such use. Tangible personal property and services used 70169
primarily in providing highway transportation for hire are not 70170
used directly in the rendition of a public utility service. In 70171
this definition, "public utility" includes a citizen of the United 70172
States holding, and required to hold, a certificate of public 70173
convenience and necessity issued under 49 U.S.C. 41102. 70174

(Q) "Refining" means removing or separating a desirable 70175
product from raw or contaminated materials by distillation or 70176
physical, mechanical, or chemical processes. 70177

(R) "Assembly" and "assembling" mean attaching or fitting 70178
together parts to form a product, but do not include packaging a 70179
product. 70180

(S) "Manufacturing operation" means a process in which 70181
materials are changed, converted, or transformed into a different 70182
state or form from which they previously existed and includes 70183
refining materials, assembling parts, and preparing raw materials 70184
and parts by mixing, measuring, blending, or otherwise committing 70185
such materials or parts to the manufacturing process. 70186
"Manufacturing operation" does not include packaging. 70187

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of

others' data, including keypunching or similar data entry services 70219
together with verification thereof, or providing access to 70220
computer equipment for the purpose of processing data. 70221

(b) "Computer services" means providing services consisting 70222
of specifying computer hardware configurations and evaluating 70223
technical processing characteristics, computer programming, and 70224
training of computer programmers and operators, provided in 70225
conjunction with and to support the sale, lease, or operation of 70226
taxable computer equipment or systems. 70227

(c) "Electronic information services" means providing access 70228
to computer equipment by means of telecommunications equipment for 70229
the purpose of either of the following: 70230

(i) Examining or acquiring data stored in or accessible to 70231
the computer equipment; 70232

(ii) Placing data into the computer equipment to be retrieved 70233
by designated recipients with access to the computer equipment. 70234

For transactions occurring on or after the effective date of 70235
the amendment of this section by H.B. 157 of the 127th general 70236
assembly, December 21, 2007, "electronic information services" 70237
does not include electronic publishing as defined in division 70238
(LLL) of this section. 70239

(d) "Automatic data processing, computer services, or 70240
electronic information services" shall not include personal or 70241
professional services. 70242

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 70243
section, "personal and professional services" means all services 70244
other than automatic data processing, computer services, or 70245
electronic information services, including but not limited to: 70246

(a) Accounting and legal services such as advice on tax 70247
matters, asset management, budgetary matters, quality control, 70248

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| information security, and auditing and any other situation where | 70249 |
| the service provider receives data or information and studies, | 70250 |
| alters, analyzes, interprets, or adjusts such material; | 70251 |
| (b) Analyzing business policies and procedures; | 70252 |
| (c) Identifying management information needs; | 70253 |
| (d) Feasibility studies, including economic and technical | 70254 |
| analysis of existing or potential computer hardware or software | 70255 |
| needs and alternatives; | 70256 |
| (e) Designing policies, procedures, and custom software for | 70257 |
| collecting business information, and determining how data should | 70258 |
| be summarized, sequenced, formatted, processed, controlled, and | 70259 |
| reported so that it will be meaningful to management; | 70260 |
| (f) Developing policies and procedures that document how | 70261 |
| business events and transactions are to be authorized, executed, | 70262 |
| and controlled; | 70263 |
| (g) Testing of business procedures; | 70264 |
| (h) Training personnel in business procedure applications; | 70265 |
| (i) Providing credit information to users of such information | 70266 |
| by a consumer reporting agency, as defined in the "Fair Credit | 70267 |
| Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or | 70268 |
| as hereafter amended, including but not limited to gathering, | 70269 |
| organizing, analyzing, recording, and furnishing such information | 70270 |
| by any oral, written, graphic, or electronic medium; | 70271 |
| (j) Providing debt collection services by any oral, written, | 70272 |
| graphic, or electronic means. | 70273 |
| The services listed in divisions (Y)(2)(a) to (j) of this | 70274 |
| section are not automatic data processing or computer services. | 70275 |
| (Z) "Highway transportation for hire" means the | 70276 |
| transportation of personal property belonging to others for | 70277 |
| consideration by any of the following: | 70278 |

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

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|---|--|
| (b) Installation or maintenance of wiring or equipment on a customer's premises; | 70310 70311 |
| (c) Tangible personal property; | 70312 |
| (d) Advertising, including directory advertising; | 70313 |
| (e) Billing and collection services provided to third parties; | 70314 70315 |
| (f) Internet access service; | 70316 |
| (g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3; | 70317 70318 70319 70320 70321 70322 70323 70324 |
| (h) Ancillary service; | 70325 |
| (i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones. | 70326 70327 |
| (2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division: | 70328 70329 70330 70331 70332 |
| (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge. | 70333 70334 70335 70336 70337 |
| (b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to | 70338 70339 |

individual calls on a customer's billing statement. 70340

(c) "Directory assistance" means an ancillary service of 70341
providing telephone number or address information. 70342

(d) "Vertical service" means an ancillary service that is 70343
offered in connection with one or more telecommunications 70344
services, which offers advanced calling features that allow 70345
customers to identify callers and manage multiple calls and call 70346
connections, including conference bridging service. 70347

(e) "Voice mail service" means an ancillary service that 70348
enables the customer to store, send, or receive recorded messages. 70349
"Voice mail service" does not include any vertical services that 70350
the customer may be required to have in order to utilize the voice 70351
mail service. 70352

(3) "900 service" means an inbound toll telecommunications 70353
service purchased by a subscriber that allows the subscriber's 70354
customers to call in to the subscriber's prerecorded announcement 70355
or live service, and which is typically marketed under the name 70356
"900" service and any subsequent numbers designated by the federal 70357
communications commission. "900 service" does not include the 70358
charge for collection services provided by the seller of the 70359
telecommunications service to the subscriber, or services or 70360
products sold by the subscriber to the subscriber's customer. 70361

(4) "Prepaid calling service" means the right to access 70362
exclusively telecommunications services, which must be paid for in 70363
advance and which enables the origination of calls using an access 70364
number or authorization code, whether manually or electronically 70365
dialed, and that is sold in predetermined units of ~~of~~ or dollars of 70366
which the number declines with use in a known amount. 70367

(5) "Prepaid wireless calling service" means a 70368
telecommunications service that provides the right to utilize 70369
mobile telecommunications service as well as other 70370

non-telecommunications services, including the download of digital 70371
products delivered electronically, and content and ancillary 70372
services, that must be paid for in advance and that is sold in 70373
predetermined units ~~of~~ or dollars of which the number declines 70374
with use in a known amount. 70375

(6) "Value-added non-voice data service" means a 70376
telecommunications service in which computer processing 70377
applications are used to act on the form, content, code, or 70378
protocol of the information or data primarily for a purpose other 70379
than transmission, conveyance, or routing. 70380

(7) "Coin-operated telephone service" means a 70381
telecommunications service paid for by inserting money into a 70382
telephone accepting direct deposits of money to operate. 70383

(8) "Customer" has the same meaning as in section 5739.034 of 70384
the Revised Code. 70385

(BB) "Laundry and dry cleaning services" means removing soil 70386
or dirt from towels, linens, articles of clothing, or other fabric 70387
items that belong to others and supplying towels, linens, articles 70388
of clothing, or other fabric items. "Laundry and dry cleaning 70389
services" does not include the provision of self-service 70390
facilities for use by consumers to remove soil or dirt from 70391
towels, linens, articles of clothing, or other fabric items. 70392

(CC) "Magazines distributed as controlled circulation 70393
publications" means magazines containing at least twenty-four 70394
pages, at least twenty-five per cent editorial content, issued at 70395
regular intervals four or more times a year, and circulated 70396
without charge to the recipient, provided that such magazines are 70397
not owned or controlled by individuals or business concerns which 70398
conduct such publications as an auxiliary to, and essentially for 70399
the advancement of the main business or calling of, those who own 70400
or control them. 70401

(DD) "Landscaping and lawn care service" means the services 70402
of planting, seeding, sodding, removing, cutting, trimming, 70403
pruning, mulching, aerating, applying chemicals, watering, 70404
fertilizing, and providing similar services to establish, promote, 70405
or control the growth of trees, shrubs, flowers, grass, ground 70406
cover, and other flora, or otherwise maintaining a lawn or 70407
landscape grown or maintained by the owner for ornamentation or 70408
other nonagricultural purpose. However, "landscaping and lawn care 70409
service" does not include the providing of such services by a 70410
person who has less than five thousand dollars in sales of such 70411
services during the calendar year. 70412

(EE) "Private investigation and security service" means the 70413
performance of any activity for which the provider of such service 70414
is required to be licensed pursuant to Chapter 4749. of the 70415
Revised Code, or would be required to be so licensed in performing 70416
such services in this state, and also includes the services of 70417
conducting polygraph examinations and of monitoring or overseeing 70418
the activities on or in, or the condition of, the consumer's home, 70419
business, or other facility by means of electronic or similar 70420
monitoring devices. "Private investigation and security service" 70421
does not include special duty services provided by off-duty police 70422
officers, deputy sheriffs, and other peace officers regularly 70423
employed by the state or a political subdivision. 70424

(FF) "Information services" means providing conversation, 70425
giving consultation or advice, playing or making a voice or other 70426
recording, making or keeping a record of the number of callers, 70427
and any other service provided to a consumer by means of a nine 70428
hundred telephone call, except when the nine hundred telephone 70429
call is the means by which the consumer makes a contribution to a 70430
recognized charity. 70431

(GG) "Research and development" means designing, creating, or 70432
formulating new or enhanced products, equipment, or manufacturing 70433

processes, and also means conducting scientific or technological 70434
inquiry and experimentation in the physical sciences with the goal 70435
of increasing scientific knowledge which may reveal the bases for 70436
new or enhanced products, equipment, or manufacturing processes. 70437

(HH) "Qualified research and development equipment" means 70438
capitalized tangible personal property, and leased personal 70439
property that would be capitalized if purchased, used by a person 70440
primarily to perform research and development. Tangible personal 70441
property primarily used in testing, as defined in division (A)(4) 70442
of section 5739.011 of the Revised Code, or used for recording or 70443
storing test results, is not qualified research and development 70444
equipment unless such property is primarily used by the consumer 70445
in testing the product, equipment, or manufacturing process being 70446
created, designed, or formulated by the consumer in the research 70447
and development activity or in recording or storing such test 70448
results. 70449

(II) "Building maintenance and janitorial service" means 70450
cleaning the interior or exterior of a building and any tangible 70451
personal property located therein or thereon, including any 70452
services incidental to such cleaning for which no separate charge 70453
is made. However, "building maintenance and janitorial service" 70454
does not include the providing of such service by a person who has 70455
less than five thousand dollars in sales of such service during 70456
the calendar year. 70457

(JJ) "Employment service" means providing or supplying 70458
personnel, on a temporary or long-term basis, to perform work or 70459
labor under the supervision or control of another, when the 70460
personnel so provided or supplied receive their wages, salary, or 70461
other compensation from the provider or supplier of the employment 70462
service or from a third party that provided or supplied the 70463
personnel to the provider or supplier. "Employment service" does 70464
not include: 70465

| | |
|--|---|
| (1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser. | 70466 70467 70468 |
| (2) Medical and health care services. | 70469 |
| (3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis. | 70470 70471 70472 70473 |
| (4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section. | 70474 70475 |
| (5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party. | 70476 70477 70478 70479 70480 |
| (KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position. | 70481 70482 70483 |
| (LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure. | 70484 70485 70486 70487 70488 |
| (MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise. | 70489 70490 70491 70492 70493 70494 70495 |

(NN) "Recreation and sports club service" means all 70496
transactions by which a membership is granted, maintained, or 70497
renewed, including initiation fees, membership dues, renewal fees, 70498
monthly minimum fees, and other similar fees and dues, by a 70499
recreation and sports club, which entitles the member to use the 70500
facilities of the organization. "Recreation and sports club" means 70501
an organization that has ownership of, or controls or leases on a 70502
continuing, long-term basis, the facilities used by its members 70503
and includes an aviation club, gun or shooting club, yacht club, 70504
card club, swimming club, tennis club, golf club, country club, 70505
riding club, amateur sports club, or similar organization. 70506

(OO) "Livestock" means farm animals commonly raised for food, 70507
food production, or other agricultural purposes, including, but 70508
not limited to, cattle, sheep, goats, swine, poultry, and captive 70509
deer. "Livestock" does not include invertebrates, amphibians, 70510
reptiles, domestic pets, animals for use in laboratories or for 70511
exhibition, or other animals not commonly raised for food or food 70512
production. 70513

(PP) "Livestock structure" means a building or structure used 70514
exclusively for the housing, raising, feeding, or sheltering of 70515
livestock, and includes feed storage or handling structures and 70516
structures for livestock waste handling. 70517

(QQ) "Horticulture" means the growing, cultivation, and 70518
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 70519
and nursery stock. As used in this division, "nursery stock" has 70520
the same meaning as in section 927.51 of the Revised Code. 70521

(RR) "Horticulture structure" means a building or structure 70522
used exclusively for the commercial growing, raising, or 70523
overwintering of horticultural products, and includes the area 70524
used for stocking, storing, and packing horticultural products 70525
when done in conjunction with the production of those products. 70526

(SS) "Newspaper" means an unbound publication bearing a title 70527
or name that is regularly published, at least as frequently as 70528
biweekly, and distributed from a fixed place of business to the 70529
public in a specific geographic area, and that contains a 70530
substantial amount of news matter of international, national, or 70531
local events of interest to the general public. 70532

(TT) "Professional racing team" means a person that employs 70533
at least twenty full-time employees for the purpose of conducting 70534
a motor vehicle racing business for profit. The person must 70535
conduct the business with the purpose of racing one or more motor 70536
racing vehicles in at least ten competitive professional racing 70537
events each year that comprise all or part of a motor racing 70538
series sanctioned by one or more motor racing sanctioning 70539
organizations. A "motor racing vehicle" means a vehicle for which 70540
the chassis, engine, and parts are designed exclusively for motor 70541
racing, and does not include a stock or production model vehicle 70542
that may be modified for use in racing. For the purposes of this 70543
division: 70544

(1) A "competitive professional racing event" is a motor 70545
vehicle racing event sanctioned by one or more motor racing 70546
sanctioning organizations, at which aggregate cash prizes in 70547
excess of eight hundred thousand dollars are awarded to the 70548
competitors. 70549

(2) "Full-time employee" means an individual who is employed 70550
for consideration for thirty-five or more hours a week, or who 70551
renders any other standard of service generally accepted by custom 70552
or specified by contract as full-time employment. 70553

(UU)(1) "Lease" or "rental" means any transfer of the 70554
possession or control of tangible personal property for a fixed or 70555
indefinite term, for consideration. "Lease" or "rental" includes 70556
future options to purchase or extend, and agreements described in 70557
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 70558

the amount of consideration may be increased or decreased by 70559
reference to the amount realized upon the sale or disposition of 70560
the property. "Lease" or "rental" does not include: 70561

(a) A transfer of possession or control of tangible personal 70562
property under a security agreement or a deferred payment plan 70563
that requires the transfer of title upon completion of the 70564
required payments; 70565

(b) A transfer of possession or control of tangible personal 70566
property under an agreement that requires the transfer of title 70567
upon completion of required payments and payment of an option 70568
price that does not exceed the greater of one hundred dollars or 70569
one per cent of the total required payments; 70570

(c) Providing tangible personal property along with an 70571
operator for a fixed or indefinite period of time, if the operator 70572
is necessary for the property to perform as designed. For purposes 70573
of this division, the operator must do more than maintain, 70574
inspect, or set-up the tangible personal property. 70575

(2) "Lease" and "rental," as defined in division (UU) of this 70576
section, shall not apply to leases or rentals that exist before 70577
June 26, 2003. 70578

(3) "Lease" and "rental" have the same meaning as in division 70579
(UU)(1) of this section regardless of whether a transaction is 70580
characterized as a lease or rental under generally accepted 70581
accounting principles, the Internal Revenue Code, Title XIII of 70582
the Revised Code, or other federal, state, or local laws. 70583

(VV) "Mobile telecommunications service" has the same meaning 70584
as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 70585
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 70586
on and after August 1, 2003, includes related fees and ancillary 70587
services, including universal service fees, detailed billing 70588
service, directory assistance, service initiation, voice mail 70589

service, and vertical services, such as caller ID and three-way 70590
calling. 70591

(WW) "Certified service provider" has the same meaning as in 70592
section 5740.01 of the Revised Code. 70593

(XX) "Satellite broadcasting service" means the distribution 70594
or broadcasting of programming or services by satellite directly 70595
to the subscriber's receiving equipment without the use of ground 70596
receiving or distribution equipment, except the subscriber's 70597
receiving equipment or equipment used in the uplink process to the 70598
satellite, and includes all service and rental charges, premium 70599
channels or other special services, installation and repair 70600
service charges, and any other charges having any connection with 70601
the provision of the satellite broadcasting service. 70602

(YY) "Tangible personal property" means personal property 70603
that can be seen, weighed, measured, felt, or touched, or that is 70604
in any other manner perceptible to the senses. For purposes of 70605
this chapter and Chapter 5741. of the Revised Code, "tangible 70606
personal property" includes motor vehicles, electricity, water, 70607
gas, steam, and prewritten computer software. 70608

(ZZ) "Direct mail" means printed material delivered or 70609
distributed by United States mail or other delivery service to a 70610
mass audience or to addressees on a mailing list provided by the 70611
consumer or at the direction of the consumer when the cost of the 70612
items are not billed directly to the recipients. "Direct mail" 70613
includes tangible personal property supplied directly or 70614
indirectly by the consumer to the direct mail vendor for inclusion 70615
in the package containing the printed material. "Direct mail" does 70616
not include multiple items of printed material delivered to a 70617
single address. 70618

(AAA) "Computer" means an electronic device that accepts 70619
information in digital or similar form and manipulates it for a 70620

result based on a sequence of instructions. 70621

(BBB) "Computer software" means a set of coded instructions 70622
designed to cause a computer or automatic data processing 70623
equipment to perform a task. 70624

(CCC) "Delivered electronically" means delivery of computer 70625
software from the seller to the purchaser by means other than 70626
tangible storage media. 70627

(DDD) "Prewritten computer software" means computer software, 70628
including prewritten upgrades, that is not designed and developed 70629
by the author or other creator to the specifications of a specific 70630
purchaser. The combining of two or more prewritten computer 70631
software programs or prewritten portions thereof does not cause 70632
the combination to be other than prewritten computer software. 70633
"Prewritten computer software" includes software designed and 70634
developed by the author or other creator to the specifications of 70635
a specific purchaser when it is sold to a person other than the 70636
purchaser. If a person modifies or enhances computer software of 70637
which the person is not the author or creator, the person shall be 70638
deemed to be the author or creator only of such person's 70639
modifications or enhancements. Prewritten computer software or a 70640
prewritten portion thereof that is modified or enhanced to any 70641
degree, where such modification or enhancement is designed and 70642
developed to the specifications of a specific purchaser, remains 70643
prewritten computer software; provided, however, that where there 70644
is a reasonable, separately stated charge or an invoice or other 70645
statement of the price given to the purchaser for the modification 70646
or enhancement, the modification or enhancement shall not 70647
constitute prewritten computer software. 70648

(EEE)(1) "Food" means substances, whether in liquid, 70649
concentrated, solid, frozen, dried, or dehydrated form, that are 70650
sold for ingestion or chewing by humans and are consumed for their 70651
taste or nutritional value. "Food" does not include alcoholic 70652

beverages, dietary supplements, soft drinks, or tobacco. 70653

(2) As used in division (EEE)(1) of this section: 70654

(a) "Alcoholic beverages" means beverages that are suitable 70655
for human consumption and contain one-half of one per cent or more 70656
of alcohol by volume. 70657

(b) "Dietary supplements" means any product, other than 70658
tobacco, that is intended to supplement the diet and that is 70659
intended for ingestion in tablet, capsule, powder, softgel, 70660
gelcap, or liquid form, or, if not intended for ingestion in such 70661
a form, is not represented as conventional food for use as a sole 70662
item of a meal or of the diet; that is required to be labeled as a 70663
dietary supplement, identifiable by the "supplement facts" box 70664
found on the label, as required by 21 C.F.R. 101.36; and that 70665
contains one or more of the following dietary ingredients: 70666

(i) A vitamin; 70667

(ii) A mineral; 70668

(iii) An herb or other botanical; 70669

(iv) An amino acid; 70670

(v) A dietary substance for use by humans to supplement the 70671
diet by increasing the total dietary intake; 70672

(vi) A concentrate, metabolite, constituent, extract, or 70673
combination of any ingredient described in divisions 70674
(EEE)(2)(b)(i) to (v) of this section. 70675

(c) "Soft drinks" means nonalcoholic beverages that contain 70676
natural or artificial sweeteners. "Soft drinks" does not include 70677
beverages that contain milk or milk products, soy, rice, or 70678
similar milk substitutes, or that contains greater than fifty per 70679
cent vegetable or fruit juice by volume. 70680

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 70681
tobacco, or any other item that contains tobacco. 70682

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a

missing portion of the body, prevent or correct physical deformity 70715
or malfunction, or support a weak or deformed portion of the body. 70716
As used in this division, "prosthetic device" does not include 70717
corrective eyeglasses, contact lenses, or dental prosthesis. 70718

(KKK)(1) "Fractional aircraft ownership program" means a 70719
program in which persons within an affiliated group sell and 70720
manage fractional ownership program aircraft, provided that at 70721
least one hundred airworthy aircraft are operated in the program 70722
and the program meets all of the following criteria: 70723

(a) Management services are provided by at least one program 70724
manager within an affiliated group on behalf of the fractional 70725
owners. 70726

(b) Each program aircraft is owned or possessed by at least 70727
one fractional owner. 70728

(c) Each fractional owner owns or possesses at least a 70729
one-sixteenth interest in at least one fixed-wing program 70730
aircraft. 70731

(d) A dry-lease aircraft interchange arrangement is in effect 70732
among all of the fractional owners. 70733

(e) Multi-year program agreements are in effect regarding the 70734
fractional ownership, management services, and dry-lease aircraft 70735
interchange arrangement aspects of the program. 70736

(2) As used in division (KKK)(1) of this section: 70737

(a) "Affiliated group" has the same meaning as in division 70738
(B)(3)(e) of this section. 70739

(b) "Fractional owner" means a person that owns or possesses 70740
at least a one-sixteenth interest in a program aircraft and has 70741
entered into the agreements described in division (KKK)(1)(e) of 70742
this section. 70743

(c) "Fractional ownership program aircraft" or "program 70744

aircraft" means a turbojet aircraft that is owned or possessed by 70745
a fractional owner and that has been included in a dry-lease 70746
aircraft interchange arrangement and agreement under divisions 70747
(KKK)(1)(d) and (e) of this section, or an aircraft a program 70748
manager owns or possesses primarily for use in a fractional 70749
aircraft ownership program. 70750

(d) "Management services" means administrative and aviation 70751
support services furnished under a fractional aircraft ownership 70752
program in accordance with a management services agreement under 70753
division (KKK)(1)(e) of this section, and offered by the program 70754
manager to the fractional owners, including, at a minimum, the 70755
establishment and implementation of safety guidelines; the 70756
coordination of the scheduling of the program aircraft and crews; 70757
program aircraft maintenance; program aircraft insurance; crew 70758
training for crews employed, furnished, or contracted by the 70759
program manager or the fractional owner; the satisfaction of 70760
record-keeping requirements; and the development and use of an 70761
operations manual and a maintenance manual for the fractional 70762
aircraft ownership program. 70763

(e) "Program manager" means the person that offers management 70764
services to fractional owners pursuant to a management services 70765
agreement under division (KKK)(1)(e) of this section. 70766

(LLL) "Electronic publishing" means providing access to one 70767
or more of the following primarily for business customers, 70768
including the federal government or a state government or a 70769
political subdivision thereof, to conduct research: news; 70770
business, financial, legal, consumer, or credit materials; 70771
editorials, columns, reader commentary, or features; photos or 70772
images; archival or research material; legal notices, identity 70773
verification, or public records; scientific, educational, 70774
instructional, technical, professional, trade, or other literary 70775
materials; or other similar information which has been gathered 70776

and made available by the provider to the consumer in an 70777
electronic format. Providing electronic publishing includes the 70778
functions necessary for the acquisition, formatting, editing, 70779
storage, and dissemination of data or information that is the 70780
subject of a sale. 70781

(MMM) "Medicaid health insuring corporation" means a health 70782
insuring corporation that holds a certificate of authority under 70783
Chapter 1751. of the Revised Code and is under contract with the 70784
department of job and family services pursuant to section 5111.17 70785
of the Revised Code. 70786

(NNN) "Managed care premium" means any premium, capitation, 70787
or other payment a medicaid health insuring corporation receives 70788
for providing or arranging for the provision of health care 70789
services to its members or enrollees residing in this state. 70790

(OOO) "Captive deer" means deer and other cervidae that have 70791
been legally acquired, or their offspring, that are privately 70792
owned for agricultural or farming purposes. 70793

(PPP) "Gift card" means a document, card, certificate, or 70794
other record, whether tangible or intangible, that may be redeemed 70795
by a consumer for a dollar value when making a purchase of 70796
tangible personal property or services. 70797

Sec. 5743.03. (A) Except as provided in section 5743.04 of 70798
the Revised Code, the taxes imposed under sections 5743.02, 70799
5743.021, 5743.024, and 5743.026 of the Revised Code shall be paid 70800
by the purchase of stamps. A stamp shall be affixed to each 70801
package of an aggregate denomination not less than the amount of 70802
the tax upon the contents thereof. The stamp, so affixed, shall be 70803
prima-facie evidence of payment of the tax. 70804

Except as is provided in the rules prescribed by the tax 70805
commissioner under authority of sections 5743.01 to 5743.20 of the 70806

Revised Code, and unless tax stamps have been previously affixed, 70807
they shall be so affixed by each wholesale dealer, and canceled by 70808
writing or stamping across the face thereof the number assigned to 70809
such wholesale dealer by the tax commissioner for that purpose, 70810
prior to the delivery of any cigarettes to any person in this 70811
state, or in the case of a tax levied pursuant to section 70812
5743.021, 5743.024, or 5743.026 of the Revised Code, prior to the 70813
delivery of cigarettes to any person in the county in which the 70814
tax is levied. 70815

(B) Except as provided in the rules prescribed by the 70816
commissioner under authority of sections 5743.01 to 5743.20 of the 70817
Revised Code, each retail dealer, within twenty-four hours after 70818
the receipt of any cigarettes at the retail dealer's place of 70819
business, shall inspect the cigarettes to ensure that tax stamps 70820
are affixed. The inspection shall be completed before the 70821
cigarettes are delivered to any person in this state, or, in the 70822
case of a tax levied pursuant to section 5743.021, 5743.024, or 70823
5743.026 of the Revised Code, before the cigarettes are delivered 70824
to any person in the county in which the tax is levied. 70825

(C) Whenever any cigarettes are found in the place of 70826
business of any retail dealer without proper tax stamps affixed 70827
thereto and canceled, it is presumed that such cigarettes are kept 70828
therein in violation of sections 5743.01 to 5743.20 of the Revised 70829
Code. 70830

(D) Each wholesale dealer who purchases cigarettes without 70831
proper tax stamps affixed thereto shall, on or before the 70832
thirty-first day of the month following the close of each 70833
semiannual period, which period shall end on the thirtieth day of 70834
June and the thirty-first day of December of each year, make and 70835
file a return of the preceding semiannual period, on such form as 70836
is prescribed by the tax commissioner, showing the dealer's entire 70837
purchases and sales of cigarettes and stamps or impressions for 70838

such semiannual period and accurate inventories as of the 70839
beginning and end of each semiannual period of cigarettes, stamped 70840
or unstamped; cigarette tax stamps affixed or unaffixed and unused 70841
meter impressions; and such other information as the commissioner 70842
finds necessary to the proper administration of sections 5743.01 70843
to 5743.20 of the Revised Code. The commissioner may extend the 70844
time for making and filing returns and may remit all or any part 70845
of amounts of penalties that may become due under sections 5743.01 70846
to 5743.20 of the Revised Code. The wholesale dealer shall deliver 70847
the return together with a remittance of the tax deficiency 70848
reported thereon to the treasurer of state. The treasurer of state 70849
shall stamp or otherwise mark on the return the date it was 70850
received and shall also show thereon by stamp or otherwise a 70851
payment or nonpayment of the deficiency shown by the return. 70852
Thereafter, the treasurer of state shall immediately transmit all 70853
returns filed under this section to the commissioner. 70854

(E) Any wholesale dealer who fails to file a return under 70855
this section and the rules of the commissioner, other than a 70856
report required pursuant to division (F) of this section, may be 70857
required, for each day the dealer so fails, to forfeit and pay 70858
into the state treasury the sum of one dollar as revenue arising 70859
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 70860
Code and such sum may be collected by assessment in the manner 70861
provided in section 5743.081 of the Revised Code. If the 70862
commissioner finds it necessary in order to insure the payment of 70863
the tax imposed by sections 5743.01 to 5743.20 of the Revised 70864
Code, the commissioner may require returns and payments to be made 70865
other than semiannually. The returns shall be signed by the 70866
wholesale dealer or an authorized agent thereof. 70867

(F) Each person required to file a tax return under section 70868
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 70869
the commissioner the quantity of all cigarettes and roll-your-own 70870

cigarette tobacco sold in Ohio for each brand not covered by the 70871
tobacco master settlement agreement for which the person is liable 70872
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 70873
the Revised Code. 70874

As used in this division, "tobacco master settlement 70875
agreement" has the same meaning as in section 183.01 of the 70876
Revised Code. 70877

(G) The report required by division (F) of this section shall 70878
be made on a form prescribed by the commissioner and shall be 70879
filed not later than the last day of each month for the previous 70880
month, except that if the commissioner determines that the 70881
quantity reported by a person does not warrant monthly reporting, 70882
the commissioner may authorize reporting at less frequent 70883
intervals. The commissioner may assess a penalty of not more than 70884
two hundred fifty dollars for each month or portion thereof that a 70885
person fails to timely file a required report, and such sum may be 70886
collected by assessment in the manner provided in section 5743.081 70887
of the Revised Code. All money collected under this division shall 70888
be considered as revenue arising from the taxes imposed by 70889
sections 5743.01 to 5743.20 of the Revised Code. 70890

(H) The treasurer of state or an agent of the treasurer may 70891
sell cigarette tax stamps only to licensed wholesale or retail 70892
cigarette dealers, except as otherwise authorized by the tax 70893
commissioner, and may charge costs related to the sale of 70894
cigarette stamps to a purchasing dealer. Money collected from such 70895
charges shall be credited to the treasurer of state's 70896
administrative fund created under section 113.20 of the Revised 70897
Code. 70898

Sec. 5743.031. (A) A wholesale dealer may affix stamps only 70899
to packages of cigarettes that the dealer received directly from a 70900
manufacturer or importer of cigarettes that possesses a valid and 70901

current license under section 5743.15 of the Revised Code, or to 70902
packages of cigarettes that the dealer received from another 70903
wholesale dealer that possesses a valid and current license under 70904
section 5743.15 of the Revised Code, provided that the tax 70905
commissioner has authorized the sale of the cigarettes between 70906
those wholesale dealers and that the wholesale dealer that sells 70907
the cigarettes received them directly from a manufacturer or 70908
importer of cigarettes that possesses a valid and current license 70909
under section 5743.15 of the Revised Code. 70910

(B) Only a wholesale dealer that possesses a valid and 70911
current license under section 5743.15 of the Revised Code may 70912
purchase or obtain tax stamps. A wholesale dealer may not sell or 70913
provide such stamps to any other wholesale dealer or any other 70914
person. 70915

(C) Any person shipping unstamped packages of cigarettes into 70916
this state to a person other than a wholesale dealer licensed 70917
under section 5743.15 of the Revised Code shall, before such 70918
shipment, file notice of the shipment with the tax commissioner. 70919
Any person that transports unstamped packages of cigarettes into 70920
or within this state shall carry in the vehicle used to convey the 70921
shipment invoices or equivalent documentation of the shipment for 70922
all cigarettes in the shipment. The invoices or other 70923
documentation shall show the true name and address of the 70924
consignor or seller, the true name and address of the consignee or 70925
purchaser, and the quantity of the cigarettes being transported. 70926
This division does not apply to any ~~common or contract~~ for-hire 70927
motor carrier transporting cigarettes through this state to 70928
another location under a proper bill of lading or freight bill 70929
that states the quantity, source, and destination of the 70930
cigarettes. 70931

Sec. 5751.033. For the purposes of this chapter, gross 70932

receipts shall be sitused to this state as follows: 70933

(A) Gross rents and royalties from real property located in 70934
this state shall be sitused to this state. 70935

(B) Gross rents and royalties from tangible personal property 70936
shall be sitused to this state to the extent the tangible personal 70937
property is located or used in this state. 70938

(C) Gross receipts from the sale of electricity and electric 70939
transmission and distribution services shall be sitused to this 70940
state in the manner provided under section 5733.059 of the Revised 70941
Code. 70942

(D) Gross receipts from the sale of real property located in 70943
this state shall be sitused to this state. 70944

(E) Gross receipts from the sale of tangible personal 70945
property shall be sitused to this state if the property is 70946
received in this state by the purchaser. In the case of delivery 70947
of tangible personal property by ~~common~~ motor carrier or by other 70948
means of transportation, the place at which such property is 70949
ultimately received after all transportation has been completed 70950
shall be considered the place where the purchaser receives the 70951
property. For purposes of this section, the phrase "delivery of 70952
tangible personal property by ~~common~~ motor carrier or by other 70953
means of transportation" includes the situation in which a 70954
purchaser accepts the property in this state and then transports 70955
the property directly or by other means to a location outside this 70956
state. Direct delivery in this state, other than for purposes of 70957
transportation, to a person or firm designated by a purchaser 70958
constitutes delivery to the purchaser in this state, and direct 70959
delivery outside this state to a person or firm designated by a 70960
purchaser does not constitute delivery to the purchaser in this 70961
state, regardless of where title passes or other conditions of 70962
sale. 70963

(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 sitused 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 sitused 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 sitused 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 sitused 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) of section 5751.01 of the Revised Code. The tax commissioner may promulgate rules to further specify the manner in which to situs

gross receipts subject to this division. 70996

(I) Gross receipts from the sale of all other services, and 70997
all other gross receipts not otherwise situated under this section, 70998
shall be situated to this state in the proportion that the 70999
purchaser's benefit in this state with respect to what was 71000
purchased bears to the purchaser's benefit everywhere with respect 71001
to what was purchased. The physical location where the purchaser 71002
ultimately uses or receives the benefit of what was purchased 71003
shall be paramount in determining the proportion of the benefit in 71004
this state to the benefit everywhere. If a taxpayer's records do 71005
not allow the taxpayer to determine that location, the taxpayer 71006
may use an alternative method to situs gross receipts under this 71007
division if the alternative method is reasonable, is consistently 71008
and uniformly applied, and is supported by the taxpayer's records 71009
as the records exist when the service is provided or within a 71010
reasonable period of time thereafter. 71011

(J) If the situsing provisions of divisions (A) to (H) of 71012
this section do not fairly represent the extent of a person's 71013
activity in this state, the person may request, or the tax 71014
commissioner may require or permit, an alternative method. Such 71015
request by a person must be made within the applicable statute of 71016
limitations set forth in this chapter. 71017

(K) The tax commissioner may adopt rules to provide 71018
additional guidance to the application of this section, and 71019
provide alternative methods of situsing gross receipts that apply 71020
to all persons, or subset of persons, that are engaged in similar 71021
business or trade activities. 71022

(L) As used in this section, "motor carrier" has the same 71023
meaning as in section 4923.01 of the Revised Code. 71024

Sec. 5751.12. The tax commissioner may prescribe requirements 71025
for the keeping of records and other pertinent documents, the 71026

filing of copies of federal income tax returns and determinations, 71027
and computations reconciling federal income tax returns with the 71028
returns and reports required by section 5751.05 of the Revised 71029
Code. The commissioner may require any person, by rule or notice 71030
served on that person, to keep those records that the commissioner 71031
considers necessary to show whether, and the extent to which, a 71032
person is subject to this chapter. Those records and other 71033
documents shall be open during business hours to the inspection of 71034
the commissioner, and shall be preserved for a period of four 71035
years unless the commissioner, in writing, consents to their 71036
destruction within that period, or by order requires that they be 71037
kept longer. If such records are normally kept by the person 71038
electronically, the person shall provide such records to the 71039
commissioner electronically at the commissioner's request. 71040

Any information required by the ~~tax~~ commissioner under this 71041
chapter is confidential as provided for in section 5703.21 of the 71042
Revised Code. However, the commissioner shall make public an 71043
electronic list of all actively registered persons required to 71044
remit the tax under this chapter, including legal names, trade 71045
names, addresses, and account numbers. In addition, such list 71046
shall include all persons that cancelled their registration at any 71047
time during the preceding four calendar years, including the date 71048
the registration was cancelled. 71049

Sec. 6109.21. (A) Except as provided in divisions ~~(D)~~(I) and 71050
~~(E)~~(J) of this section, ~~on and after January 1, 1994,~~ no person 71051
shall operate ~~or maintain~~ a public water system in this state 71052
without a license issued by the director of environmental 71053
protection. ~~A person who operates or maintains a public water~~ 71054
~~system on January 1, 1994, shall obtain an initial license under~~ 71055
~~this section in accordance with the following schedule:~~ 71056

~~(1) If the public water system is a community water system,~~ 71057

~~not later than January 31, 1994;~~ 71058

~~(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;~~ 71059
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~~(3) If the public water system is not a community water system and serves a transient population, not later than January 31, 1995.~~ 71062
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~~A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.~~ 71065
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~~A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.~~ 71071
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~~The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section.~~ 71078
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Through (B)(1) A person who proposes to operate a new public water system, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall obtain an initial license from the director. The person shall submit an application for the initial license at least forty-five days prior to commencing the operation of the system. 71082
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(C) A license shall expire on the thirtieth day of January in 71088

the year following its issuance. 71089

(D) A license shall be renewed annually. A person proposing 71090
to continue operating a public water system shall apply for a 71091
license renewal at least thirty days prior to the expiration date 71092
of the license. 71093

(E) Through June 30, 2014, each application for a license or 71094
license renewal shall be accompanied by the appropriate fee 71095
established under division (M) of section 3745.11 of the Revised 71096
Code, ~~provided that. However,~~ an applicant for an initial license 71097
who is proposing to operate ~~or maintain~~ a new public water system 71098
~~after January 1, 1994,~~ shall submit a fee that equals a prorated 71099
amount of the appropriate fee established under that division for 71100
the remainder of the licensing year. 71101

~~(B)(F)~~ Not later than thirty days after receiving a completed 71102
application and the appropriate license fee for ~~an initial a~~ 71103
~~license under division (A) of this section, the director shall~~ 71104
~~issue the or license renewal for the a public water system. Not~~ 71105
~~later than thirty days after receiving a completed application and~~ 71106
~~the appropriate license fee for a license renewal under division~~ 71107
~~(A) of this section, the director shall do one of the following:~~ 71108

(1) Issue the license or license renewal for the public water 71109
system; 71110

(2) Issue the license or license renewal subject to terms and 71111
conditions that the director determines are necessary to ensure 71112
compliance with this chapter and rules adopted under it; 71113

(3) Deny the license or license renewal if the director finds 71114
that the public water system ~~was not~~ cannot be operated in 71115
substantial compliance with this chapter and rules adopted under 71116
it. 71117

~~(C)(G)~~ The director may condition, suspend, or revoke a 71118
license or license renewal issued under this section at any time 71119

if the director finds that the public water system was not or will 71120
not be operated in substantial compliance with this chapter and 71121
rules adopted under it. ~~The director shall adopt, and may amend~~ 71122
~~and rescind, rules in accordance with Chapter 119. of the Revised~~ 71123
~~Code governing such suspensions and revocations.~~ 71124

(D)(H) The director shall adopt rules in accordance with 71125
Chapter 119. of the Revised Code establishing procedures and 71126
requirements governing both of the following: 71127

(1) Information to be included on applications for licenses 71128
and license renewals issued under this section; 71129

(2) The issuance, conditioning, suspension, revocation, and 71130
denial of licenses and license renewals under this section. 71131

(I)(1) As used in division ~~(D)~~(I) of this section, "church" 71132
means a fellowship of believers, congregation, society, 71133
corporation, convention, or association that is formed primarily 71134
or exclusively for religious purposes and that is not formed or 71135
operated for the private profit of any person. 71136

(2) This section does not apply to a church that operates or 71137
maintains a public water system solely to provide water for that 71138
church or for a campground that is owned by the church and 71139
operated primarily or exclusively for members of the church and 71140
their families. ~~A church that, on or before March 5, 1996, has~~ 71141
~~obtained a license under this section for such a public water~~ 71142
~~system need not obtain a license renewal under this section.~~ 71143

~~(E)~~(J) This section does not apply to any public or nonpublic 71144
school that meets minimum standards of the state board of 71145
education that operates or maintains a public water system solely 71146
to provide water for that school. 71147

~~(F)~~(K) The environmental protection agency shall collect well 71148
log filing fees on behalf of the division of soil and water 71149
resources in the department of natural resources in accordance 71150

with section 1521.05 of the Revised Code and rules adopted under 71151
it. The fees shall be submitted to the division quarterly as 71152
provided in those rules. 71153

Sec. 6111.46. (A) The environmental protection agency shall 71154
exercise general supervision of the treatment and disposal of 71155
sewage and industrial wastes and the operation and maintenance of 71156
works or means installed for the collection, treatment, and 71157
disposal of sewage and industrial wastes. Such general supervision 71158
shall apply to all features of construction, operation, and 71159
maintenance of the works or means that do or may affect the proper 71160
treatment and disposal of sewage and industrial wastes. 71161

(B)(1) The agency shall investigate the works or means 71162
employed in the collection, treatment, and disposal of sewage and 71163
industrial wastes whenever considered necessary or whenever 71164
requested to do so by local health officials and may issue and 71165
enforce orders and shall adopt rules governing the operation and 71166
maintenance of the works or means of treatment and disposal of 71167
such sewage and industrial wastes. In adopting rules under this 71168
section, the agency shall establish standards governing the 71169
construction, operation, and maintenance of the works or means of 71170
collection, treatment, and disposal of sewage that is generated at 71171
recreational vehicle parks, recreation camps, combined park-camps, 71172
and temporary park-camps that are separate from such standards 71173
relative to manufactured home parks. 71174

(2) As used in division (B)(1) of this section: 71175

(a) "Manufactured home parks" has the same meaning as in 71176
section ~~3733.01~~ 4781.01 of the Revised Code. 71177

(b) "Recreational vehicle parks," "recreation camps," 71178
"combined park-camps," and "temporary park-camps" have the same 71179
meanings as in section 3729.01 of the Revised Code. 71180

(C) The agency may require the submission of records and data 71181
of construction, operation, and maintenance, including plans and 71182
descriptions of existing works or means of treatment and disposal 71183
of such sewage and industrial wastes. When the agency requires the 71184
submission of such records or information, the public officials or 71185
person, firm, or corporation having the works in charge shall 71186
comply promptly with that order. 71187

Section 101.02. That existing sections 7.10, 7.16, 9.34, 71188
9.90, 9.91, 102.02, 103.51, 105.41, 109.57, 109.572, 121.04, 71189
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5111.242, 5111.254, 5111.862, 5111.874, 5111.877, 5111.878, 71294
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5719.13, 5725.14, 5725.15, 5725.16, 5725.17, 5725.22, 5725.221, 71308

5731.39, 5733.064, 5739.01, 5743.03, 5743.031, 5751.033, 5751.12, 71309
6109.21, and 6111.46 of the Revised Code are hereby repealed. 71310

Section 105.01. That sections 103.144, 103.145, 103.146, 71311
183.28, 185.04, 185.08, 185.10, 185.11, 340.05, 2301.19, 2909.32, 71312
2909.33, 2909.34, 3301.68, 3333.049, 3333.0411, 3333.33, 3333.70, 71313
3333.80, 3334.111, 3353.02, 3353.03, 3353.04, 3353.09, 3353.15, 71314
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3701.35, 3702.521, 3702.5210, 3702.5211, 3702.5212, 3702.5213, 71316
3702.58, 3702.591, 3733.01, 3733.031, 3745.111, 3781.183, 71317
3791.043, 4113.11, 4121.18, 4730.401, 4766.02, 4766.20, 4905.80, 71318
4905.801, 4905.81, 4905.82, 4905.83, 4919.75, 4919.76, 4919.77, 71319
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4923.10, 4923.11, 4923.12, 4923.13, 4923.14, 4923.17, 4923.20, 71327
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5119.71, 5119.711, 5119.712, 5119.72, 5119.73, 5119.731, 5119.74, 71329
5119.75, 5119.76, 5119.77, 5119.78, 5119.79, 5119.80, 5119.81, 71330
5119.82, 5119.83, 5119.84, 5119.85, 5119.86, 5119.87, 5119.88, 71331
5123.082, 5123.083, 5123.192, 5126.0222, 5126.252, 5126.26, 71332
5126.27, 5126.28, 5126.281, 5126.29, and 5501.09 of the Revised 71333
Code are hereby repealed. 71334

Section 110.10. That the version of section 5122.31 of the 71335
Revised Code that is scheduled to take effect on October 1, 2012, 71336
be amended to read as follows: 71337

Sec. 5122.31. (A) All certificates, applications, records, 71338

and reports made for the purpose of this chapter and sections 71339
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 71340
Code, other than court journal entries or court docket entries, 71341
and directly or indirectly identifying a patient or former patient 71342
or person whose hospitalization has been sought under this 71343
chapter, shall be kept confidential and shall not be disclosed by 71344
any person except: 71345

(1) If the person identified, or the person's legal guardian, 71346
if any, or if the person is a minor, the person's parent or legal 71347
guardian, consents, and if the disclosure is in the best interests 71348
of the person, as may be determined by the court for judicial 71349
records and by the chief clinical officer for medical records; 71350

(2) When disclosure is provided for in this chapter or 71351
section 5123.601 of the Revised Code; 71352

(3) That hospitals, boards of alcohol, drug addiction, and 71353
mental health services, and community mental health agencies may 71354
release necessary medical information to insurers and other 71355
third-party payers, including government entities responsible for 71356
processing and authorizing payment, to obtain payment for goods 71357
and services furnished to the patient; 71358

(4) Pursuant to a court order signed by a judge; 71359

(5) That a patient shall be granted access to the patient's 71360
own psychiatric and medical records, unless access specifically is 71361
restricted in a patient's treatment plan for clear treatment 71362
reasons; 71363

(6) That hospitals and other institutions and facilities 71364
within the department of mental health may exchange psychiatric 71365
records and other pertinent information with other hospitals, 71366
institutions, and facilities of the department, and with community 71367
mental health agencies and boards of alcohol, drug addiction, and 71368

mental health services with which the department has a current 71369
agreement for patient care or services. Records and information 71370
that may be released pursuant to this division shall be limited to 71371
medication history, physical health status and history, financial 71372
status, summary of course of treatment in the hospital, summary of 71373
treatment needs, and a discharge summary, if any. 71374

(7) That hospitals within the department, other institutions 71375
and facilities within the department, hospitals licensed by the 71376
department under section 5119.20 of the Revised Code, and 71377
community mental health agencies may exchange psychiatric records 71378
and other pertinent information with payers and other providers of 71379
treatment and health services if the purpose of the exchange is to 71380
facilitate continuity of care for a patient; 71381

(8) That a patient's family member who is involved in the 71382
provision, planning, and monitoring of services to the patient may 71383
receive medication information, a summary of the patient's 71384
diagnosis and prognosis, and a list of the services and personnel 71385
available to assist the patient and the patient's family, if the 71386
patient's treating physician determines that the disclosure would 71387
be in the best interests of the patient. No such disclosure shall 71388
be made unless the patient is notified first and receives the 71389
information and does not object to the disclosure. 71390

(9) That community mental health agencies may exchange 71391
psychiatric records and certain other information with the board 71392
of alcohol, drug addiction, and mental health services and other 71393
agencies in order to provide services to a person involuntarily 71394
committed to a board. Release of records under this division shall 71395
be limited to medication history, physical health status and 71396
history, financial status, summary of course of treatment, summary 71397
of treatment needs, and discharge summary, if any. 71398

(10) That information may be disclosed to the executor or the 71399
administrator of an estate of a deceased patient when the 71400

information is necessary to administer the estate; 71401

(11) That records in the possession of the Ohio historical 71402
society may be released to the closest living relative of a 71403
deceased patient upon request of that relative; 71404

(12) That information may be disclosed to staff members of 71405
the appropriate board or to staff members designated by the 71406
director of mental health for the purpose of evaluating the 71407
quality, effectiveness, and efficiency of services and determining 71408
if the services meet minimum standards. Information obtained 71409
during such evaluations shall not be retained with the name of any 71410
patient. 71411

(13) That records pertaining to the patient's diagnosis, 71412
course of treatment, treatment needs, and prognosis shall be 71413
disclosed and released to the appropriate prosecuting attorney if 71414
the patient was committed pursuant to section 2945.38, 2945.39, 71415
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 71416
attorney designated by the board for proceedings pursuant to 71417
involuntary commitment under this chapter. 71418

(14) That the department of mental health may exchange 71419
psychiatric hospitalization records, other mental health treatment 71420
records, and other pertinent information with the department of 71421
rehabilitation and correction to ensure continuity of care for 71422
inmates who are receiving mental health services in an institution 71423
of the department of rehabilitation and correction. The department 71424
shall not disclose those records unless the inmate is notified, 71425
receives the information, and does not object to the disclosure. 71426
The release of records under this division is limited to records 71427
regarding an inmate's medication history, physical health status 71428
and history, summary of course of treatment, summary of treatment 71429
needs, and a discharge summary, if any. 71430

(15) That a community mental health agency that ceases to 71431

operate may transfer to either a community mental health agency 71432
that assumes its caseload or to the board of alcohol, drug 71433
addiction, and mental health services of the service district in 71434
which the patient resided at the time services were most recently 71435
provided any treatment records that have not been transferred 71436
elsewhere at the patient's request. 71437

(B) Before records are disclosed pursuant to divisions 71438
(A)(3), (6), ~~(7)~~, and (9) of this section, the custodian of the 71439
records shall attempt to obtain the patient's consent for the 71440
disclosure. No person shall reveal the contents of a medical 71441
record of a patient except as authorized by law. 71442

(C) The managing officer of a hospital who releases necessary 71443
medical information under division (A)(3) of this section to allow 71444
an insurance carrier or other third party payor to comply with 71445
section 5121.43 of the Revised Code shall neither be subject to 71446
criminal nor civil liability. 71447

Section 110.11. That the existing version of section 5122.31 71448
of the Revised Code that is scheduled to take effect on October 1, 71449
2012, is hereby repealed. 71450

Section 110.12. Sections 110.10 and 110.11 of this act take 71451
effect October 1, 2012. 71452

Section 110.20. That the version of section 5123.19 of the 71453
Revised Code that is scheduled to take effect on October 1, 2012, 71454
be amended to read as follows: 71455

Sec. 5123.19. (A) As used in ~~this section and in~~ sections 71456
~~5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and~~ 5123.19 to 71457
5123.20 of the Revised Code: 71458

~~(1)(a) "Residential facility" means a home or facility in~~ 71459

~~which a mentally retarded or developmentally disabled person 71460
resides, except the home of a relative or legal guardian in which 71461
a mentally retarded or developmentally disabled person resides, a 71462
respite care home certified under section 5126.05 of the Revised 71463
Code, a county home or district home operated pursuant to Chapter 71464
5155. of the Revised Code, or a dwelling in which the only 71465
mentally retarded or developmentally disabled residents are in an 71466
independent living arrangement or are being provided supported 71467
living. 71468~~

~~(b) "Intermediate care facility for the mentally retarded" 71469
means a residential facility that is considered an intermediate 71470
care facility for the mentally retarded for the purposes of 71471
Chapter 5111. of the Revised Code. 71472~~

~~(2) "Political subdivision" means a municipal corporation, 71473
county, or township. 71474~~

~~(3) "Independent living arrangement" means an arrangement in 71475
which a mentally retarded or developmentally disabled person 71476
resides in an individualized setting chosen by the person or the 71477
person's guardian, which is not dedicated principally to the 71478
provision of residential services for mentally retarded or 71479
developmentally disabled persons, and for which no financial 71480
support is received for rendering such service from any 71481
governmental agency by a provider of residential services. 71482~~

~~(4)(2) "Intermediate care facility for the mentally retarded" 71483
has the same meaning as in section 1905(d) of the "Social Security 71484
Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended. 71485~~

~~(3) "Licensee" means the person or government agency that has 71486
applied for a license to operate a residential facility and to 71487
which the license was issued under this section. 71488~~

~~(4) "Political subdivision" means a municipal corporation, 71489
county, or township. 71490~~

(5) "Related party" has the same meaning as in section 71491
5123.16 of the Revised Code except that "provider" as used in the 71492
definition of "related party" means a person or government entity 71493
that held or applied for a license to operate a residential 71494
facility, rather than a person or government entity certified to 71495
provide supported living. 71496

(6)(a) Except as provided in division (A)(6)(b) of this 71497
section, "residential facility" means a home or facility, 71498
including a facility certified as an intermediate care facility 71499
for the mentally retarded, in which an individual with mental 71500
retardation or a developmental disability resides. 71501

(b) "Residential facility" does not mean any of the 71502
following: 71503

(i) The home of a relative or legal guardian in which an 71504
individual with mental retardation or a developmental disability 71505
resides; 71506

(ii) A respite care home certified under section 5126.05 of 71507
the Revised Code; 71508

(iii) A county home or district home operated pursuant to 71509
Chapter 5155. of the Revised Code; 71510

(iv) A dwelling in which the only residents with mental 71511
retardation or developmental disabilities are in independent 71512
living arrangements or are being provided supported living. 71513

(B) Every person or government agency desiring to operate a 71514
residential facility shall apply for licensure of the facility to 71515
the director of developmental disabilities unless the residential 71516
facility is subject to section 3721.02, ~~5119.73~~, 5103.03, ~~or~~ 71517
~~5119.20, or division (A)(9)(b) of section 5119.22~~ of the Revised 71518
Code. ~~Notwithstanding Chapter 3721. of the Revised Code, a nursing~~ 71519
~~home that is certified as an intermediate care facility for the~~ 71520
~~mentally retarded under Title XIX of the "Social Security Act," 79~~ 71521

~~Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for~~ 71522
~~licensure of the portion of the home that is certified as an~~ 71523
~~intermediate care facility for the mentally retarded.~~ 71524

(C) Subject to section 5123.196 of the Revised Code, the 71525
director of developmental disabilities shall license the operation 71526
of residential facilities. An initial license shall be issued for 71527
a period that does not exceed one year, unless the director denies 71528
the license under division (D) of this section. A license shall be 71529
renewed for a period that does not exceed three years, unless the 71530
director refuses to renew the license under division (D) of this 71531
section. The director, when issuing or renewing a license, shall 71532
specify the period for which the license is being issued or 71533
renewed. A license remains valid for the length of the licensing 71534
period specified by the director, unless the license is 71535
terminated, revoked, or voluntarily surrendered. 71536

(D) If it is determined that an applicant or licensee is not 71537
in compliance with a provision of this chapter that applies to 71538
residential facilities or the rules adopted under such a 71539
provision, the director may deny issuance of a license, refuse to 71540
renew a license, terminate a license, revoke a license, issue an 71541
order for the suspension of admissions to a facility, issue an 71542
order for the placement of a monitor at a facility, issue an order 71543
for the immediate removal of residents, or take any other action 71544
the director considers necessary consistent with the director's 71545
authority under this chapter regarding residential facilities. In 71546
the director's selection and administration of the sanction to be 71547
imposed, all of the following apply: 71548

(1) The director may deny, refuse to renew, or revoke a 71549
license, if the director determines that the applicant or licensee 71550
has demonstrated a pattern of serious noncompliance or that a 71551
violation creates a substantial risk to the health and safety of 71552
residents of a residential facility. 71553

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this

chapter that applies to residential facilities or the rules 71586
adopted under such a provision. 71587

(6) When the director initiates license revocation 71588
proceedings, no opportunity for submitting a plan of correction 71589
shall be given. The director shall notify the licensee by letter 71590
of the initiation of the proceedings. The letter shall list the 71591
deficiencies of the residential facility and inform the licensee 71592
that no plan of correction will be accepted. The director shall 71593
also send a copy of the letter to the county board of 71594
developmental disabilities. The county board shall send a copy of 71595
the letter to each of the following: 71596

(a) Each resident who receives services from the licensee; 71597

(b) The guardian of each resident who receives services from 71598
the licensee if the resident has a guardian; 71599

(c) The parent or guardian of each resident who receives 71600
services from the licensee if the resident is a minor. 71601

(7) Pursuant to rules which shall be adopted in accordance 71602
with Chapter 119. of the Revised Code, the director may order the 71603
immediate removal of residents from a residential facility 71604
whenever conditions at the facility present an immediate danger of 71605
physical or psychological harm to the residents. 71606

(8) In determining whether a residential facility is being 71607
operated in compliance with a provision of this chapter that 71608
applies to residential facilities or the rules adopted under such 71609
a provision, or whether conditions at a residential facility 71610
present an immediate danger of physical or psychological harm to 71611
the residents, the director may rely on information obtained by a 71612
county board of developmental disabilities or other governmental 71613
agencies. 71614

(9) In proceedings initiated to deny, refuse to renew, or 71615
revoke licenses, the director may deny, refuse to renew, or revoke 71616

a license regardless of whether some or all of the deficiencies 71617
that prompted the proceedings have been corrected at the time of 71618
the hearing. 71619

(E) The director shall establish a program under which public 71620
notification may be made when the director has initiated license 71621
revocation proceedings or has issued an order for the suspension 71622
of admissions, placement of a monitor, or removal of residents. 71623
The director shall adopt rules in accordance with Chapter 119. of 71624
the Revised Code to implement this division. The rules shall 71625
establish the procedures by which the public notification will be 71626
made and specify the circumstances for which the notification must 71627
be made. The rules shall require that public notification be made 71628
if the director has taken action against the facility in the 71629
eighteen-month period immediately preceding the director's latest 71630
action against the facility and the latest action is being taken 71631
for the same or a substantially similar violation of a provision 71632
of this chapter that applies to residential facilities or the 71633
rules adopted under such a provision. The rules shall specify a 71634
method for removing or amending the public notification if the 71635
director's action is found to have been unjustified or the 71636
violation at the residential facility has been corrected. 71637

(F)(1) Except as provided in division (F)(2) of this section, 71638
appeals from proceedings initiated to impose a sanction under 71639
division (D) of this section shall be conducted in accordance with 71640
Chapter 119. of the Revised Code. 71641

(2) Appeals from proceedings initiated to order the 71642
suspension of admissions to a facility shall be conducted in 71643
accordance with Chapter 119. of the Revised Code, unless the order 71644
was issued before providing an opportunity for an adjudication, in 71645
which case all of the following apply: 71646

(a) The licensee may request a hearing not later than ten 71647
days after receiving the notice specified in section 119.07 of the 71648

Revised Code. 71649

(b) If a timely request for a hearing that includes the 71650
licensee's current address is made, the hearing shall commence not 71651
later than thirty days after the department receives the request. 71652

(c) After commencing, the hearing shall continue 71653
uninterrupted, except for Saturdays, Sundays, and legal holidays, 71654
unless other interruptions are agreed to by the licensee and the 71655
director. 71656

(d) If the hearing is conducted by a hearing examiner, the 71657
hearing examiner shall file a report and recommendations not later 71658
than ten days after the last of the following: 71659

(i) The close of the hearing; 71660

(ii) If a transcript of the proceedings is ordered, the 71661
hearing examiner receives the transcript; 71662

(iii) If post-hearing briefs are timely filed, the hearing 71663
examiner receives the briefs. 71664

(e) A copy of the written report and recommendation of the 71665
hearing examiner shall be sent, by certified mail, to the licensee 71666
and the licensee's attorney, if applicable, not later than five 71667
days after the report is filed. 71668

(f) Not later than five days after the hearing examiner files 71669
the report and recommendations, the licensee may file objections 71670
to the report and recommendations. 71671

(g) Not later than fifteen days after the hearing examiner 71672
files the report and recommendations, the director shall issue an 71673
order approving, modifying, or disapproving the report and 71674
recommendations. 71675

(h) Notwithstanding the pendency of the hearing, the director 71676
shall lift the order for the suspension of admissions when the 71677
director determines that the violation that formed the basis for 71678

the order has been corrected. 71679

(G) Neither a person or government agency whose application 71680
for a license to operate a residential facility is denied nor a 71681
related party of the person or government agency may apply for a 71682
license to operate a residential facility before the date that is 71683
one year after the date of the denial. Neither a licensee whose 71684
residential facility license is revoked nor a related party of the 71685
licensee may apply for a residential facility license before the 71686
date that is five years after the date of the revocation. 71687

(H) In accordance with Chapter 119. of the Revised Code, the 71688
director shall adopt and may amend and rescind rules for licensing 71689
and regulating the operation of residential facilities, ~~including~~ 71690
~~intermediate care facilities for the mentally retarded~~. The rules 71691
for residential facilities that are intermediate care facilities 71692
for the mentally retarded may differ from those for other 71693
residential facilities. The rules shall establish and specify the 71694
following: 71695

(1) Procedures and criteria for issuing and renewing 71696
licenses, including procedures and criteria for determining the 71697
length of the licensing period that the director must specify for 71698
each license when it is issued or renewed; 71699

(2) Procedures and criteria for denying, refusing to renew, 71700
terminating, and revoking licenses and for ordering the suspension 71701
of admissions to a facility, placement of a monitor at a facility, 71702
and the immediate removal of residents from a facility; 71703

(3) Fees for issuing and renewing licenses, which shall be 71704
deposited into the program fee fund created under section 5123.033 71705
of the Revised Code; 71706

(4) Procedures for surveying residential facilities; 71707

(5) Requirements for the training of residential facility 71708
personnel; 71709

| | |
|--|---|
| (6) Classifications for the various types of residential facilities; | 71710 71711 |
| (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; | 71712 71713 71714 71715 |
| (8) The maximum number of persons who may be served in a particular type of residential facility; | 71716 71717 |
| (9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities; | 71718 71719 |
| (10) Other standards for the operation of residential facilities and the services provided at residential facilities; | 71720 71721 |
| (11) Procedures for waiving any provision of any rule adopted under this section. | 71722 71723 |
| (I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there. | 71724 71725 71726 71727 71728 71729 71730 71731 71732 |
| In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's | 71733 71734 71735 71736 71737 71738 71739 71740 |

designee in conducting the survey. 71741

Following each survey, unless the director initiates a 71742
license revocation proceeding, the director or the director's 71743
designee shall provide the licensee with a report listing any 71744
deficiencies, specifying a timetable within which the licensee 71745
shall submit a plan of correction describing how the deficiencies 71746
will be corrected, and, when appropriate, specifying a timetable 71747
within which the licensee must correct the deficiencies. After a 71748
plan of correction is submitted, the director or the director's 71749
designee shall approve or disapprove the plan. A copy of the 71750
report and any approved plan of correction shall be provided to 71751
any person who requests it. 71752

The director shall initiate disciplinary action against any 71753
department employee who notifies or causes the notification to any 71754
unauthorized person of an unannounced survey of a residential 71755
facility by an authorized representative of the department. 71756

(J) In addition to any other information which may be 71757
required of applicants for a license pursuant to this section, the 71758
director shall require each applicant to provide a copy of an 71759
approved plan for a proposed residential facility pursuant to 71760
section 5123.042 of the Revised Code. This division does not apply 71761
to renewal of a license or to an applicant for an initial or 71762
modified license who meets the requirements of section ~~5123.193~~ or 71763
5123.197 of the Revised Code. 71764

(K) A licensee shall notify the owner of the building in 71765
which the licensee's residential facility is located of any 71766
significant change in the identity of the licensee or management 71767
contractor before the effective date of the change if the licensee 71768
is not the owner of the building. 71769

Pursuant to rules which shall be adopted in accordance with 71770
Chapter 119. of the Revised Code, the director may require 71771

notification to the department of any significant change in the 71772
ownership of a residential facility or in the identity of the 71773
licensee or management contractor. If the director determines that 71774
a significant change of ownership is proposed, the director shall 71775
consider the proposed change to be an application for development 71776
by a new operator pursuant to section 5123.042 of the Revised Code 71777
and shall advise the applicant within sixty days of the 71778
notification that the current license shall continue in effect or 71779
a new license will be required pursuant to this section. If the 71780
director requires a new license, the director shall permit the 71781
facility to continue to operate under the current license until 71782
the new license is issued, unless the current license is revoked, 71783
refused to be renewed, or terminated in accordance with Chapter 71784
119. of the Revised Code. 71785

(L) A county board of developmental disabilities and any 71786
interested person may file complaints alleging violations of 71787
statute or department rule relating to residential facilities with 71788
the department. All complaints shall be in writing and shall state 71789
the facts constituting the basis of the allegation. The department 71790
shall not reveal the source of any complaint unless the 71791
complainant agrees in writing to waive the right to 71792
confidentiality or until so ordered by a court of competent 71793
jurisdiction. 71794

The department shall adopt rules in accordance with Chapter 71795
119. of the Revised Code establishing procedures for the receipt, 71796
referral, investigation, and disposition of complaints filed with 71797
the department under this division. 71798

(M) The department shall establish procedures for the 71799
notification of interested parties of the transfer or interim care 71800
of residents from residential facilities that are closing or are 71801
losing their license. 71802

(N) Before issuing a license under this section to a 71803

residential facility that will accommodate at any time more than 71804
one mentally retarded or developmentally disabled individual, the 71805
director shall, by first class mail, notify the following: 71806

(1) If the facility will be located in a municipal 71807
corporation, the clerk of the legislative authority of the 71808
municipal corporation; 71809

(2) If the facility will be located in unincorporated 71810
territory, the clerk of the appropriate board of county 71811
commissioners and the fiscal officer of the appropriate board of 71812
township trustees. 71813

The director shall not issue the license for ten days after 71814
mailing the notice, excluding Saturdays, Sundays, and legal 71815
holidays, in order to give the notified local officials time in 71816
which to comment on the proposed issuance. 71817

Any legislative authority of a municipal corporation, board 71818
of county commissioners, or board of township trustees that 71819
receives notice under this division of the proposed issuance of a 71820
license for a residential facility may comment on it in writing to 71821
the director within ten days after the director mailed the notice, 71822
excluding Saturdays, Sundays, and legal holidays. If the director 71823
receives written comments from any notified officials within the 71824
specified time, the director shall make written findings 71825
concerning the comments and the director's decision on the 71826
issuance of the license. If the director does not receive written 71827
comments from any notified local officials within the specified 71828
time, the director shall continue the process for issuance of the 71829
license. 71830

(O) Any person may operate a licensed residential facility 71831
that provides room and board, personal care, habilitation 71832
services, and supervision in a family setting for at least six but 71833
not more than eight persons with mental retardation or a 71834

developmental disability as a permitted use in any residential 71835
district or zone, including any single-family residential district 71836
or zone, of any political subdivision. These residential 71837
facilities may be required to comply with area, height, yard, and 71838
architectural compatibility requirements that are uniformly 71839
imposed upon all single-family residences within the district or 71840
zone. 71841

(P) Any person may operate a licensed residential facility 71842
that provides room and board, personal care, habilitation 71843
services, and supervision in a family setting for at least nine 71844
but not more than sixteen persons with mental retardation or a 71845
developmental disability as a permitted use in any multiple-family 71846
residential district or zone of any political subdivision, except 71847
that a political subdivision that has enacted a zoning ordinance 71848
or resolution establishing planned unit development districts may 71849
exclude these residential facilities from those districts, and a 71850
political subdivision that has enacted a zoning ordinance or 71851
resolution may regulate these residential facilities in 71852
multiple-family residential districts or zones as a conditionally 71853
permitted use or special exception, in either case, under 71854
reasonable and specific standards and conditions set out in the 71855
zoning ordinance or resolution to: 71856

(1) Require the architectural design and site layout of the 71857
residential facility and the location, nature, and height of any 71858
walls, screens, and fences to be compatible with adjoining land 71859
uses and the residential character of the neighborhood; 71860

(2) Require compliance with yard, parking, and sign 71861
regulation; 71862

(3) Limit excessive concentration of these residential 71863
facilities. 71864

(Q) This section does not prohibit a political subdivision 71865

from applying to residential facilities nondiscriminatory 71866
regulations requiring compliance with health, fire, and safety 71867
regulations and building standards and regulations. 71868

(R) Divisions (O) and (P) of this section are not applicable 71869
to municipal corporations that had in effect on June 15, 1977, an 71870
ordinance specifically permitting in residential zones licensed 71871
residential facilities by means of permitted uses, conditional 71872
uses, or special exception, so long as such ordinance remains in 71873
effect without any substantive modification. 71874

(S)(1) The director may issue an interim license to operate a 71875
residential facility to an applicant for a license under this 71876
section if either of the following is the case: 71877

(a) The director determines that an emergency exists 71878
requiring immediate placement of persons in a residential 71879
facility, that insufficient licensed beds are available, and that 71880
the residential facility is likely to receive a permanent license 71881
under this section within thirty days after issuance of the 71882
interim license. 71883

(b) The director determines that the issuance of an interim 71884
license is necessary to meet a temporary need for a residential 71885
facility. 71886

(2) To be eligible to receive an interim license, an 71887
applicant must meet the same criteria that must be met to receive 71888
a permanent license under this section, except for any differing 71889
procedures and time frames that may apply to issuance of a 71890
permanent license. 71891

(3) An interim license shall be valid for thirty days and may 71892
be renewed by the director for a period not to exceed one hundred 71893
fifty days. 71894

(4) The director shall adopt rules in accordance with Chapter 71895
119. of the Revised Code as the director considers necessary to 71896

administer the issuance of interim licenses. 71897

(T) Notwithstanding rules adopted pursuant to this section 71898
establishing the maximum number of persons who may be served in a 71899
particular type of residential facility, a residential facility 71900
shall be permitted to serve the same number of persons being 71901
served by the facility on the effective date of the rules or the 71902
number of persons for which the facility is authorized pursuant to 71903
a current application for a certificate of need with a letter of 71904
support from the department of developmental disabilities and 71905
which is in the review process prior to April 4, 1986. 71906

(U) The director or the director's designee may enter at any 71907
time, for purposes of investigation, any home, facility, or other 71908
structure that has been reported to the director or that the 71909
director has reasonable cause to believe is being operated as a 71910
residential facility without a license issued under this section. 71911

The director may petition the court of common pleas of the 71912
county in which an unlicensed residential facility is located for 71913
an order enjoining the person or governmental agency operating the 71914
facility from continuing to operate without a license. The court 71915
may grant the injunction on a showing that the person or 71916
governmental agency named in the petition is operating a 71917
residential facility without a license. The court may grant the 71918
injunction, regardless of whether the residential facility meets 71919
the requirements for receiving a license under this section. 71920

Section 110.21. That the existing version of section 5123.19 71921
of the Revised Code that is scheduled to take effect on October 1, 71922
2012, is hereby repealed. 71923

Section 110.22. Sections 110.20 and 110.21 of this act take 71924
effect October 1, 2012. 71925

Section 110.30. That the version of section 5123.61 of the Revised Code that is scheduled to take effect on October 1, 2012, be amended to read as follows:

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 such information to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or to the county board of developmental disabilities. If the report concerns a resident

of a facility operated by the department of developmental 71956
disabilities the report shall be made either to a law enforcement 71957
agency or to the department. If the report concerns any act or 71958
omission of an employee of a county board of developmental 71959
disabilities, the report immediately shall be made to the 71960
department and to the county board. 71961

(2) All of the following persons are required to make a 71962
report under division (C)(1) of this section: 71963

(a) Any physician, including a hospital intern or resident, 71964
any dentist, podiatrist, chiropractor, practitioner of a limited 71965
branch of medicine as specified in section 4731.15 of the Revised 71966
Code, hospital administrator or employee of a hospital, nurse 71967
licensed under Chapter 4723. of the Revised Code, employee of an 71968
ambulatory health facility as defined in section 5101.61 of the 71969
Revised Code, employee of a home health agency, employee of ~~an~~ 71970
~~adult care~~ a residential facility licensed under ~~Chapter 3722.~~ 71971
section 5119.22 of the Revised Code that provides accommodations, 71972
supervision, and person care services for three to sixteen 71973
unrelated adults, or employee of a community mental health 71974
facility; 71975

(b) Any school teacher or school authority, social worker, 71976
psychologist, attorney, peace officer, coroner, or residents' 71977
rights advocate as defined in section 3721.10 of the Revised Code; 71978

(c) A superintendent, board member, or employee of a county 71979
board of developmental disabilities; an administrator, board 71980
member, or employee of a residential facility licensed under 71981
section 5123.19 of the Revised Code; an administrator, board 71982
member, or employee of any other public or private provider of 71983
services to a person with mental retardation or a developmental 71984
disability, or any MR/DD employee, as defined in section 5123.50 71985
of the Revised Code; 71986

(d) A member of a citizen's advisory council established at 71987
an institution or branch institution of the department of 71988
developmental disabilities under section 5123.092 of the Revised 71989
Code; 71990

(e) A ~~clergyman~~ member of the clergy who is employed in a 71991
position that includes providing specialized services to an 71992
individual with mental retardation or another developmental 71993
disability, while acting in an official or professional capacity 71994
in that position, or a person who is employed in a position that 71995
includes providing specialized services to an individual with 71996
mental retardation or another developmental disability and who, 71997
while acting in an official or professional capacity, renders 71998
spiritual treatment through prayer in accordance with the tenets 71999
of an organized religion. 72000

(3)(a) The reporting requirements of this division do not 72001
apply to employees of the Ohio protection and advocacy system. 72002

(b) An attorney or physician is not required to make a report 72003
pursuant to division (C)(1) of this section concerning any 72004
communication the attorney or physician receives from a client or 72005
patient in an attorney-client or physician-patient relationship, 72006
if, in accordance with division (A) or (B) of section 2317.02 of 72007
the Revised Code, the attorney or physician could not testify with 72008
respect to that communication in a civil or criminal proceeding, 72009
except that the client or patient is deemed to have waived any 72010
testimonial privilege under division (A) or (B) of section 2317.02 72011
of the Revised Code with respect to that communication and the 72012
attorney or physician shall make a report pursuant to division 72013
(C)(1) of this section, if both of the following apply: 72014

(i) The client or patient, at the time of the communication, 72015
is a person with mental retardation or a developmental disability. 72016

(ii) The attorney or physician knows or suspects, as a result 72017

of the communication or any observations made during that 72018
communication, that the client or patient has suffered or faces a 72019
substantial risk of suffering any wound, injury, disability, or 72020
condition of a nature that reasonably indicates abuse or neglect 72021
of the client or patient. 72022

(4) Any person who fails to make a report required under 72023
division (C) of this section and who is an MR/DD employee, as 72024
defined in section 5123.50 of the Revised Code, shall be eligible 72025
to be included in the registry regarding misappropriation, abuse, 72026
neglect, or other specified misconduct by MR/DD employees 72027
established under section 5123.52 of the Revised Code. 72028

(D) The reports required under division (C) of this section 72029
shall be made forthwith by telephone or in person and shall be 72030
followed by a written report. The reports shall contain the 72031
following: 72032

(1) The names and addresses of the person with mental 72033
retardation or a developmental disability and the person's 72034
custodian, if known; 72035

(2) The age of the person with mental retardation or a 72036
developmental disability; 72037

(3) Any other information that would assist in the 72038
investigation of the report. 72039

(E) When a physician performing services as a member of the 72040
staff of a hospital or similar institution has reason to believe 72041
that a person with mental retardation or a developmental 72042
disability has suffered injury, abuse, or physical neglect, the 72043
physician shall notify the person in charge of the institution or 72044
that person's designated delegate, who shall make the necessary 72045
reports. 72046

(F) Any person having reasonable cause to believe that a 72047
person with mental retardation or a developmental disability has 72048

suffered or faces a substantial risk of suffering abuse or neglect 72049
may report or cause a report to be made of that belief to the 72050
entity specified in this division. Except as provided in section 72051
5120.173 of the Revised Code or as otherwise provided in this 72052
division, the person making the report shall make it to a law 72053
enforcement agency or the county board of developmental 72054
disabilities. If the person is a resident of a facility operated 72055
by the department of developmental disabilities, the report shall 72056
be made to a law enforcement agency or to the department. If the 72057
report concerns any act or omission of an employee of a county 72058
board of developmental disabilities, the report immediately shall 72059
be made to the department and to the county board. 72060

(G)(1) Upon the receipt of a report concerning the possible 72061
abuse or neglect of a person with mental retardation or a 72062
developmental disability, the law enforcement agency shall inform 72063
the county board of developmental disabilities or, if the person 72064
is a resident of a facility operated by the department of 72065
developmental disabilities, the director of the department or the 72066
director's designee. 72067

(2) On receipt of a report under this section that includes 72068
an allegation of action or inaction that may constitute a crime 72069
under federal law or the law of this state, the department of 72070
developmental disabilities shall notify the law enforcement 72071
agency. 72072

(3) When a county board of developmental disabilities 72073
receives a report under this section that includes an allegation 72074
of action or inaction that may constitute a crime under federal 72075
law or the law of this state, the superintendent of the board or 72076
an individual the superintendent designates under division (H) of 72077
this section shall notify the law enforcement agency. The 72078
superintendent or individual shall notify the department of 72079
developmental disabilities when it receives any report under this 72080

section. 72081

(4) When a county board of developmental disabilities 72082
receives a report under this section and believes that the degree 72083
of risk to the person is such that the report is an emergency, the 72084
superintendent of the board or an employee of the board the 72085
superintendent designates shall attempt a face-to-face contact 72086
with the person with mental retardation or a developmental 72087
disability who allegedly is the victim within one hour of the 72088
board's receipt of the report. 72089

(H) The superintendent of the board may designate an 72090
individual to be responsible for notifying the law enforcement 72091
agency and the department when the county board receives a report 72092
under this section. 72093

(I) An adult with mental retardation or a developmental 72094
disability about whom a report is made may be removed from the 72095
adult's place of residence only by law enforcement officers who 72096
consider that the adult's immediate removal is essential to 72097
protect the adult from further injury or abuse or in accordance 72098
with the order of a court made pursuant to section 5126.33 of the 72099
Revised Code. 72100

(J) A law enforcement agency shall investigate each report of 72101
abuse or neglect it receives under this section. In addition, the 72102
department, in cooperation with law enforcement officials, shall 72103
investigate each report regarding a resident of a facility 72104
operated by the department to determine the circumstances 72105
surrounding the injury, the cause of the injury, and the person 72106
responsible. The investigation shall be in accordance with the 72107
memorandum of understanding prepared under section 5126.058 of the 72108
Revised Code. The department shall determine, with the registry 72109
office which shall be maintained by the department, whether prior 72110
reports have been made concerning an adult with mental retardation 72111
or a developmental disability or other principals in the case. If 72112

the department finds that the report involves action or inaction 72113
that may constitute a crime under federal law or the law of this 72114
state, it shall submit a report of its investigation, in writing, 72115
to the law enforcement agency. If the person with mental 72116
retardation or a developmental disability is an adult, with the 72117
consent of the adult, the department shall provide such protective 72118
services as are necessary to protect the adult. The law 72119
enforcement agency shall make a written report of its findings to 72120
the department. 72121

If the person is an adult and is not a resident of a facility 72122
operated by the department, the county board of developmental 72123
disabilities shall review the report of abuse or neglect in 72124
accordance with sections 5126.30 to 5126.33 of the Revised Code 72125
and the law enforcement agency shall make the written report of 72126
its findings to the county board. 72127

(K) Any person or any hospital, institution, school, health 72128
department, or agency participating in the making of reports 72129
pursuant to this section, any person participating as a witness in 72130
an administrative or judicial proceeding resulting from the 72131
reports, or any person or governmental entity that discharges 72132
responsibilities under sections 5126.31 to 5126.33 of the Revised 72133
Code shall be immune from any civil or criminal liability that 72134
might otherwise be incurred or imposed as a result of such actions 72135
except liability for perjury, unless the person or governmental 72136
entity has acted in bad faith or with malicious purpose. 72137

(L) No employer or any person with the authority to do so 72138
shall discharge, demote, transfer, prepare a negative work 72139
performance evaluation, reduce pay or benefits, terminate work 72140
privileges, or take any other action detrimental to an employee or 72141
retaliate against an employee as a result of the employee's having 72142
made a report under this section. This division does not preclude 72143
an employer or person with authority from taking action with 72144

regard to an employee who has made a report under this section if 72145
there is another reasonable basis for the action. 72146

(M) Reports made under this section are not public records as 72147
defined in section 149.43 of the Revised Code. Information 72148
contained in the reports on request shall be made available to the 72149
person who is the subject of the report, to the person's legal 72150
counsel, and to agencies authorized to receive information in the 72151
report by the department or by a county board of developmental 72152
disabilities. 72153

(N) Notwithstanding section 4731.22 of the Revised Code, the 72154
physician-patient privilege shall not be a ground for excluding 72155
evidence regarding the injuries or physical neglect of a person 72156
with mental retardation or a developmental disability or the cause 72157
thereof in any judicial proceeding resulting from a report 72158
submitted pursuant to this section. 72159

Section 110.31. That the existing version of section 5123.61 72160
of the Revised Code that is scheduled to take effect on October 1, 72161
2012, is hereby repealed. 72162

Section 110.32. Sections 110.30 and 110.31 of this act take 72163
effect October 1, 2012. 72164

Section 503.10. FISCAL YEAR 2012 GENERAL REVENUE FUND ENDING 72165
BALANCE 72166

Notwithstanding divisions (B) and (C) of section 131.44 of 72167
the Revised Code, the Director of Budget and Management shall 72168
determine the surplus General Revenue Fund revenue that existed on 72169
June 30, 2012, in excess of the amount required under division 72170
(A)(3) of section 131.44 of the Revised Code, and transfer from 72171
the General Revenue Fund, to the extent of the amount so 72172
determined, to the Statewide Treatment and Prevention Fund (Fund 72173

4750), a cash amount of \$1,000,000 and to the Long-Term Care 72174
Ombudsman Program Fund (Fund 4C40), a cash amount of \$1,500,000. 72175

Section 506.10. OHP HEALTH CARE GRANTS FUND 72176

For fiscal year 2012 and fiscal year 2013, the Department of 72177
Job and Family Services may deposit into the OHP Health Care 72178
Grants Fund (Fund 3FA0) federal grants for the administration of 72179
health care programs that the Department receives under the 72180
"Patient Protection and Affordable Care Act," Public Law 111-148, 72181
and the "Health Care and Education Reconciliation Act of 2010," 72182
Public Law 111-152. The Department shall use the money in the fund 72183
to pay for expenses incurred in carrying out duties the Department 72184
assumes by accepting such federal grants, including expenses for 72185
the administration of health care programs. 72186

Section 512.10. TRANSFER OF FUNDS FOR CASINO CONTROL 72187
COMMISSION OPERATIONS 72188

During fiscal year 2013, the Director of Budget and 72189
Management may, in consultation with the Executive Director of the 72190
Casino Control Commission, transfer cash as necessary for 72191
operating expenses and casino investigations. The transfer shall 72192
be made from the General Revenue Fund to the Casino Control 72193
Commission Operating Fund (Fund 5HS0). Once funds from upfront 72194
license application fees and gross casino revenue taxes have been 72195
accumulated to sustain operations, the Director of Budget and 72196
Management, in consultation with the Executive Director of the 72197
Casino Control Commission, shall establish a repayment schedule 72198
for transfers to the General Revenue Fund from the Casino Control 72199
Commission Operating Fund (Fund 5HS0). 72200

Section 512.20. PRE-SECURITIZATION TOBACCO PAYMENTS 72201

The Pre-Securitization Tobacco Payments Fund (Fund 5LS0) is 72202

hereby created in the state treasury. All moneys received by the 72203
state in connection with releases from disputed payment accounts 72204
or amounts previously withheld under the Tobacco Master Settlement 72205
Agreement that do not constitute pledged receipts for the Buckeye 72206
Tobacco Settlement Financing Authority Tobacco Settlement Bonds, 72207
Series 2007, shall be credited to the fund and used by the 72208
Director of Budget and Management as authorized in this section. 72209

On July 1 of each fiscal year, or as soon as possible 72210
thereafter, the Director of Budget and Management shall determine, 72211
in consultation with the Attorney General, the amounts needed to 72212
fund tobacco enforcement-related activities and may transfer cash 72213
in those amounts from Fund 5LS0 to the Tobacco Oversight 72214
Administration and Enforcement Fund (Fund U087). The Director of 72215
Budget and Management may transfer remaining cash determined to be 72216
in excess of the tobacco enforcement needs of the Attorney General 72217
from Fund 5LS0 to the General Revenue Fund. 72218

Upon receipt of all pre-securitization Tobacco Master 72219
Settlement Agreement payments and the transfer of all cash 72220
credited to Fund 5LS0 as authorized in this section, Fund 5LS0 is 72221
abolished. 72222

On July 1, 2012, or as soon as possible thereafter, and upon 72223
the request of the Attorney General, the Director of Budget and 72224
Management may transfer up to \$3,000,000 cash from the General 72225
Reimbursement Fund (Fund 1060) to the Tobacco Oversight 72226
Administration and Enforcement Fund (Fund U087). 72227

Section 512.30. CASH TRANSFER FROM TRAUMA AND EMERGENCY 72228
MEDICAL SERVICES GRANTS FUND 72229

On the effective date of this section, or as soon as possible 72230
thereafter, the Director of Budget and Management shall transfer 72231
the cash balance in the Trauma and Emergency Medical Services 72232
Grants Fund (Fund 83P0) to the Trauma and Emergency Medical 72233

Services Fund (Fund 83M0). The Director shall cancel any existing 72234
encumbrances against appropriation item 765637, EMS Grants, and 72235
reestablish them against appropriation item 765640, EMS - Grants. 72236
The reestablished encumbrance amounts are hereby appropriated. 72237

Section 512.40. CASH TRANSFER FROM ELEMENTARY SCHOOL SEAT 72238
BELT FUND 72239

On the effective date of this section, or as soon as possible 72240
thereafter, the Director of Budget and Management shall transfer 72241
the cash balance in the Elementary School Seat Belt Fund (Fund 72242
83N0) to the Trauma and Emergency Medical Services Fund (Fund 72243
83M0). The Director shall cancel any existing encumbrances against 72244
appropriation item 761611, Elementary School Seat Belt Program, 72245
and reestablish them against appropriation item 765624, Operating 72246
Expense - Trauma and EMS. The reestablished encumbrance amounts 72247
are hereby appropriated. 72248

Section 512.50. MEDICAID PROGRAM SUPPORT STATE FUND ABOLISHED 72249

The Director of Budget and Management shall transfer any 72250
remaining cash balance in the Medicaid Program Support State Fund 72251
(Fund 5C90) to the Health Care/Medicaid Support and Recoveries 72252
Fund (Fund 5DL0) created under section 5111.941 of the Revised 72253
Code. The Medicaid Program Support State Fund (Fund 5C90) shall 72254
cease to exist once the transfer is complete. 72255

Section 512.60. On the effective date of this section, or as 72256
soon as possible thereafter, the Director of Budget and Management 72257
shall transfer the unencumbered cash balance in the Education 72258
Technology Trust Fund (Fund S087) to the General Revenue Fund. 72259

Section 515.10. On and after July 1, 2012, the eTech Ohio 72260
Commission is hereby abolished and its duties, personnel, assets, 72261
and liabilities are transferred as provided in Sections 515.11 and 72262

515.13 of this act. 72263

Section 515.11. (A) On July 1, 2012, responsibility for 72264
administration of the state's educational telecommunications 72265
activities under sections 3333.89, 3333.91, and 3333.92 and new 72266
section 3333.90 of the Revised Code and teacher professional 72267
development for implementing educational technology under section 72268
3319.235 of the Revised Code are transferred from the former eTech 72269
Ohio Commission to the Chancellor of the Ohio Board of Regents. 72270
The Chancellor is thereupon and thereafter successor to, assumes 72271
the obligations of, and otherwise constitutes the continuation of 72272
the eTech Ohio Commission relating to the functions, assets, 72273
records, and obligations of the state regarding those matters. 72274

(B) Any business related to the matters described in division 72275
(A) of this section commenced but not completed by the former 72276
eTech Ohio Commission shall be completed by the Chancellor in the 72277
same manner, and with the same effect, as if completed by the 72278
eTech Ohio Commission. No validation, cure, right, privilege, 72279
remedy, obligation, or liability is lost or impaired by reason of 72280
the transfer, and shall be recognized, administered, performed, or 72281
enforced by the Chancellor. 72282

(C) All of the rules of the former eTech Ohio Commission 72283
related to the matters described in division (A) of this section 72284
continue in effect as rules of the Chancellor, until amended or 72285
rescinded by the Chancellor. 72286

(D) No judicial or administrative action or proceeding 72287
related to the matters described in division (A) of this section 72288
in which the former eTech Ohio Commission is a party, that is 72289
pending on the effective date of this section, is affected by the 72290
transfer. Such action or proceeding shall be prosecuted or 72291
defended in the name of the Chancellor. On application to the 72292

court or other tribunal, the Chancellor of the Ohio Board of Regents shall be substituted for the eTech Ohio Commission as a party to such action or proceeding.

(E) Subject to the lay-off provisions of sections 124.321 to 124.328 and division (C) of new section 3333.90 of the Revised Code, all employees of the former eTech Ohio Commission assigned by the Commission to the matters described in division (A) of this section continue with the Chancellor and retain their positions and all benefits accruing thereto.

(F) All books, records, documents, files, transcripts, equipment, furniture, supplies, and other materials related to the matters described in division (A) of this section assigned to or in the possession of the former eTech Ohio Commission shall be transferred to the Chancellor.

Section 515.12. As of July 1, 2012, the Chancellor of the Board of Regents shall succeed to and have and perform all fiduciary duties and responsibilities previously held by the Director of eTech Ohio for all outstanding capital appropriations designated for use by eTech Ohio.

Section 515.13. (A) On July 1, 2012, responsibility for administration of the state's educational technology assistance activities, provided by the former eTech Ohio Commission, is transferred to the Department of Education. The Department shall execute the duties described in section 3301.75 of the Revised Code. The Department is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the eTech Ohio Commission, in the matters as described in that section.

(B) Any business described in section 3301.75 of the Revised Code but not completed by the former eTech Ohio Commission shall

be completed by the Department of Education in the same manner, 72323
and with the same effect, as if completed by the eTech Ohio 72324
Commission. No validation, cure, right, privilege, remedy, 72325
obligation, or liability is lost or impaired by reason of the 72326
renaming, and shall be recognized, administered, performed, or 72327
enforced by the Department. 72328

(C) All of the rules of the former eTech Ohio Commission 72329
related to activities described in section 3301.75 of the Revised 72330
Code continue in effect as rules of the State Board of Education, 72331
until amended or rescinded by the State Board. 72332

(D) No judicial or administrative action or proceeding 72333
related to activities described in section 3301.75 of the Revised 72334
Code, in which the former eTech Ohio Commission is a party, that 72335
is pending on the effective date of this section is affected by 72336
the renaming. Such action or proceeding shall be prosecuted or 72337
defended in the name of the Superintendent of Public Instruction 72338
for the Department. On application to the court or other tribunal, 72339
the Superintendent of Public Instruction shall be substituted for 72340
the eTech Ohio Commission as a party to such action or proceeding. 72341

(E) Subject to the lay-off provisions of sections 124.321 to 72342
124.328 of the Revised Code, all employees of the former eTech 72343
Ohio Commission assigned to the administration of the state's 72344
educational technology assistance activities, as described in 72345
section 3301.75 of the Revised Code, continue with the Department 72346
of Education and retain their positions and all benefits accruing 72347
thereto. 72348

(F) All books, records, documents, files, transcripts, 72349
equipment, furniture, supplies, and other materials related to 72350
activities described in section 3301.75 of the Revised Code 72351
assigned to or in the possession of the former eTech Ohio 72352
Commission shall be transferred to the Department of Education. 72353

Section 601.10. That Section 205.10 of Am. Sub. H.B. 114 of 72354
the 129th General Assembly, as amended by Am. Sub. H.B. 153 of the 72355
129th General Assembly, be amended to read as follows: 72356

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY 72357

State Highway Safety Fund Group 72358

4W40 762321 Operating Expense - \$ 80,003,146 \$ ~~82,403,240~~ 72359
BMV 82,003,240

4W40 762410 Registrations \$ 28,945,176 \$ 29,813,532 72360
Supplement

5V10 762682 License Plate \$ 2,100,000 \$ 2,100,000 72361
Contributions

7036 761321 Operating Expense - \$ 7,124,366 \$ ~~7,338,097~~ 72362
Information and 6,988,097
Education

7036 761401 Lease Rental Payments \$ 9,978,300 \$ 2,315,700 72363

7036 764033 Minor Capital Projects \$ 1,250,000 \$ 1,250,000 72364

7036 764321 Operating Expense - \$ 260,744,934 \$ 258,365,903 72365
Highway Patrol

7036 764605 Motor Carrier \$ 2,860,000 \$ 2,860,000 72366
Enforcement Expenses

8300 761603 Salvage and Exchange - \$ 19,469 \$ 20,053 72367
Administration

8310 761610 Information and \$ 422,084 \$ ~~434,746~~ 72368
Education - Federal 409,746

8310 764610 Patrol - Federal \$ 2,209,936 \$ 2,276,234 72369

8310 764659 Transportation \$ 5,519,333 \$ 5,684,913 72370
Enforcement - Federal

8310 765610 EMS - Federal \$ 532,007 \$ 532,007 72371

8310 769610 ~~Food Stamp Trafficking~~ \$ 1,546,319 \$ 1,546,319 72372
~~Enforcement - Federal~~
Investigative Unit

| | | <u>Federal Reimbursement</u> | | | |
|-------------|---------------|---|---------------|---|-------|
| 8310 | 769631 | Homeland Security - Federal | \$ 2,184,000 | \$ 2,184,000 | 72373 |
| 8320 | 761612 | Traffic Safety - Federal | \$ 16,577,565 | \$ 16,577,565 | 72374 |
| 8350 | 762616 | Financial Responsibility Compliance | \$ 5,457,240 | \$ 5,549,068 <u>5,274,068</u> | 72375 |
| 8370 | 764602 | Turnpike Policing | \$ 11,553,959 | \$ 11,553,959 | 72376 |
| 8380 | 764606 | Patrol Reimbursement | \$ 50,000 | \$ 50,000 | 72377 |
| 83C0 | 764630 | Contraband, Forfeiture, Other | \$ 622,894 | \$ 622,894 | 72378 |
| 83F0 | 764657 | Law Enforcement Automated Data System | \$ 9,053,266 | \$ 9,053,266 | 72379 |
| 83G0 | 764633 | OMVI Enforcement/Education | \$ 623,230 | \$ 641,927 | 72380 |
| 83J0 | 764693 | Highway Patrol Justice Contraband | \$ 2,100,000 | \$ 2,100,000 | 72381 |
| 83M0 | 765624 | Operating Expense - Trauma and EMS | \$ 2,632,106 | \$ 2,711,069 <u>3,204,925</u> | 72382 |
| <u>83M0</u> | <u>765640</u> | <u>EMS - Grants</u> | <u>\$ 0</u> | <u>\$ 4,229,819</u> | 72383 |
| 83N0 | 761611 | Elementary School Seat Belt Program | \$ 305,600 | \$ 305,600 <u>0</u> | 72384 |
| 83P0 | 765637 | EMS Grants | \$ 4,106,621 | \$ 4,229,819 <u>0</u> | 72385 |
| 83R0 | 762639 | Local Immobilization Reimbursement | \$ 450,000 | \$ 450,000 | 72386 |
| 83T0 | 764694 | Highway Patrol Treasury Contraband | \$ 21,000 | \$ 21,000 | 72387 |
| 8400 | 764607 | State Fair Security | \$ 1,256,655 | \$ 1,294,354 | 72388 |
| 8400 | 764617 | Security and Investigations | \$ 6,432,686 | \$ 6,432,686 | 72389 |
| 8400 | 764626 | State Fairgrounds Police Force | \$ 849,883 | \$ 849,883 | 72390 |

| | | | | | | | |
|---|--------|---|----|-------------|----|--|-------|
| 8400 | 769632 | Homeland Security - Operating | \$ | 737,791 | \$ | 737,791 | 72391 |
| 8410 | 764603 | Salvage and Exchange - Highway Patrol | \$ | 1,339,399 | \$ | 1,339,399 | 72392 |
| 8460 | 761625 | Motorcycle Safety Education | \$ | 3,185,013 | \$ | 3,280,563 | 72393 |
| 8490 | 762627 | Automated Title Processing Board | \$ | 17,316,755 | \$ | 14,335,513 | 72394 |
| TOTAL HSF State Highway Safety Fund Group | | | \$ | 490,110,733 | \$ | 481,261,100 <u>480,399,356</u> | 72395 |
| General Services Fund Group | | | | | | | 72396 |
| 4P60 | 768601 | Justice Program Services | \$ | 998,104 | \$ | 1,028,047 | 72397 |
| 4S30 | 766661 | Hilltop Utility Reimbursement | \$ | 540,800 | \$ | 540,800 | 72398 |
| 5ET0 | 768625 | Drug Law Enforcement | \$ | 3,780,000 | \$ | 3,893,400 | 72399 |
| 5Y10 | 764695 | Highway Patrol Continuing Professional Training | \$ | 170,000 | \$ | 170,000 | 72400 |
| 5Y10 | 767696 | Investigative Unit Continuing Professional Training | \$ | 15,000 | \$ | 15,000 | 72401 |
| TOTAL GSF General Services Fund Group | | | \$ | 5,503,904 | \$ | 5,647,247 | 72402 |
| Federal Special Revenue Fund Group | | | | | | | 72403 |
| 3290 | 763645 | Federal Mitigation Program | \$ | 10,110,332 | \$ | 10,413,642 | 72404 |
| 3370 | 763609 | Federal Disaster Relief | \$ | 27,707,636 | \$ | 27,707,636 | 72405 |
| 3390 | 763647 | Emergency Management Assistance and Training | \$ | 75,664,821 | \$ | 77,934,765 | 72406 |

| | | | | | | | |
|-----------|---------------------------------------|--|----|-------------|----|--|-------|
| 3CB0 | 768691 | Federal Justice Grants - FFY06 | \$ | 200,000 | \$ | 50,000 | 72407 |
| 3CC0 | 768609 | Justice Assistance Grants - FFY07 | \$ | 583,222 | \$ | 310,000 | 72408 |
| 3CD0 | 768610 | Justice Assistance Grants - FFY08 | \$ | 310,000 | \$ | 150,000 | 72409 |
| 3CE0 | 768611 | Justice Assistance Grants - FFY09 | \$ | 865,000 | \$ | 1,200,000 | 72410 |
| 3CV0 | 768697 | Justice Assistance Grants Supplement - FFY08 | \$ | 2,000 | \$ | 0 | 72411 |
| 3DE0 | 768612 | Federal Stimulus - Justice Assistance Grants | \$ | 1,015,000 | \$ | 1,015,000 | 72412 |
| 3DH0 | 768613 | Federal Stimulus - Justice Programs | \$ | 150,000 | \$ | 150,000 | 72413 |
| 3DU0 | 762628 | BMV Grants | \$ | 1,525,000 | \$ | 1,580,000 <u>1,480,000</u> | 72414 |
| 3EU0 | 768614 | Justice Assistance Grants - FFY10 | \$ | 650,000 | \$ | 920,000 | 72415 |
| 3L50 | 768604 | Justice Program | \$ | 11,400,000 | \$ | 11,400,000 | 72416 |
| 3N50 | 763644 | U.S. Department of Energy Agreement | \$ | 31,672 | \$ | 31,672 | 72417 |
| TOTAL FED | Federal Special Revenue Fund Group | | \$ | 130,214,683 | \$ | 132,862,715 <u>132,762,715</u> | 72418 |
| | State Special Revenue Fund Group | | | | | | 72419 |
| 4V30 | 763662 | EMA Service and Reimbursement | \$ | 4,368,369 | \$ | 4,499,420 | 72420 |
| 5390 | 762614 | Motor Vehicle Dealers Board | \$ | 180,000 | \$ | 185,400 | 72421 |
| 5B90 | 766632 | Private Investigator and Security Guard Provider | \$ | 1,562,637 | \$ | 1,562,637 | 72422 |

| | | | | | | | |
|----------------|---------------------------|--|-----------|-----------------------|-----------|-----------------------|-------|
| 5BK0 | 768687 | Criminal Justice Services - Operating | \$ | 400,000 | \$ | 400,000 | 72423 |
| 5BK0 | 768689 | Family Violence Shelter Programs | \$ | 750,000 | \$ | 750,000 | 72424 |
| 5CM0 | 767691 | Federal Investigative <u>Seizure Investigative</u> <u>Unit Federal</u> <u>Equitable Sharing -</u> <u>Treasury</u> | \$ | 300,000 | \$ | 300,000 | 72425 |
| 5DS0 | 769630 | Homeland Security | \$ | 1,414,384 | \$ | 1,414,384 | 72426 |
| 5FF0 | 762621 | Indigent Interlock and Alcohol Monitoring | \$ | 2,000,000 | \$ | 2,000,000 | 72427 |
| 5FL0 | 769634 | Investigations | \$ | 899,300 | \$ | 899,300 | 72428 |
| <u>5LM0</u> | <u>768698</u> | <u>Criminal Justice</u> <u>Services Law</u> <u>Enforcement Support</u> | <u>\$</u> | <u>33,991</u> | <u>\$</u> | <u>816,955</u> | 72429 |
| 6220 | 767615 | Investigative Contraband and Forfeiture | \$ | 375,000 | \$ | 375,000 | 72430 |
| 6570 | 763652 | Utility Radiological Safety | \$ | 1,415,945 | \$ | 1,415,945 | 72431 |
| 6810 | 763653 | SARA Title III HAZMAT Planning | \$ | 262,438 | \$ | 262,438 | 72432 |
| 8500 | 767628 | Investigative Unit Salvage | \$ | 90,000 | \$ | 92,700 | 72433 |
| TOTAL SSR | State Special Revenue | | \$ | 14,018,073 | \$ | 14,157,224 | 72434 |
| Fund Group | | | | <u>14,052,064</u> | | <u>14,974,179</u> | |
| Liquor Control | Fund Group | | | | | | 72435 |
| 7043 | 767321 | Liquor Enforcement - Operating | \$ | 11,000,000 | \$ | 11,000,000 | 72436 |
| TOTAL LCF | Liquor Control Fund Group | | \$ | 11,000,000 | \$ | 11,000,000 | 72437 |
| Agency Fund | Group | | | | | | 72438 |

| | | | | | | |
|---|---------------------|----|------------------------|----|------------------------|-------|
| 5J90 761678 | Federal Salvage/GSA | \$ | 1,500,000 | \$ | 1,500,000 | 72439 |
| TOTAL AGY | Agency Fund Group | \$ | 1,500,000 | \$ | 1,500,000 | 72440 |
| Holding Account Redistribution Fund Group | | | | | | 72441 |
| R024 762619 | Unidentified Motor | \$ | 1,885,000 | \$ | 1,885,000 | 72442 |
| Vehicle Receipts | | | | | | |
| R052 762623 | Security Deposits | \$ | 350,000 | \$ | 350,000 | 72443 |
| TOTAL 090 | Holding Account | \$ | 2,235,000 | \$ | 2,235,000 | 72444 |
| Redistribution Fund Group | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 654,582,393 | \$ | 648,663,286 | 72445 |
| | | | <u>654,616,384</u> | | <u>648,518,497</u> | |

MOTOR VEHICLE REGISTRATION 72446

The Registrar of Motor Vehicles may deposit revenues to meet 72447
the cash needs of the State Bureau of Motor Vehicles Fund (Fund 72448
4W40) established in section 4501.25 of the Revised Code, obtained 72449
under sections 4503.02 and 4504.02 of the Revised Code, less all 72450
other available cash. Revenue deposited pursuant to this paragraph 72451
shall support, in part, appropriations for operating expenses and 72452
defray the cost of manufacturing and distributing license plates 72453
and license plate stickers and enforcing the law relative to the 72454
operation and registration of motor vehicles. Notwithstanding 72455
section 4501.03 of the Revised Code, the revenues shall be paid 72456
into Fund 4W40 before any revenues obtained pursuant to sections 72457
4503.02 and 4504.02 of the Revised Code are paid into any other 72458
fund. The deposit of revenues to meet the aforementioned cash 72459
needs shall be in approximately equal amounts on a monthly basis 72460
or as otherwise determined by the Director of Budget and 72461
Management pursuant to a plan submitted by the Registrar of Motor 72462
Vehicles. 72463

CAPITAL PROJECTS 72464

The Registrar of Motor Vehicles may transfer cash from the 72465
State Bureau of Motor Vehicles Fund (Fund 4W40) to the State 72466
Highway Safety Fund (Fund 7036) to meet its obligations for 72467

| | |
|--|-------|
| capital projects CIR-047, Department of Public Safety Office | 72468 |
| Building and CIR-049, Warehouse Facility. | 72469 |
| OBA BOND AUTHORITY/LEASE RENTAL PAYMENTS | 72470 |
| The foregoing appropriation item 761401, Lease Rental | 72471 |
| Payments, shall be used for payments to the Ohio Building | 72472 |
| Authority for the period July 1, 2011, to June 30, 2013, under the | 72473 |
| primary leases and agreements for public safety related buildings | 72474 |
| financed by obligations issued under Chapter 152. of the Revised | 72475 |
| Code. Notwithstanding section 152.24 of the Revised Code, the Ohio | 72476 |
| Building Authority may, with approval of the Director of Budget | 72477 |
| and Management, lease capital facilities to the Department of | 72478 |
| Public Safety. | 72479 |
| HILLTOP TRANSFER | 72480 |
| The Director of Public Safety shall determine, per an | 72481 |
| agreement with the Director of Transportation, the share of each | 72482 |
| debt service payment made out of appropriation item 761401, Lease | 72483 |
| Rental Payments, that relates to the Department of | 72484 |
| Transportation's portion of the Hilltop Building Project, and | 72485 |
| shall certify to the Director of Budget and Management the amounts | 72486 |
| of this share. The Director of Budget and Management shall | 72487 |
| transfer the amounts of such shares from the Highway Operating | 72488 |
| Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036). | 72489 |
| CASH TRANSFERS TO TRAUMA AND EMERGENCY MEDICAL SERVICES FUND | 72490 |
| On July 1, 2011, or as soon as possible thereafter, the | 72491 |
| Director of Budget and Management shall transfer the unexpended | 72492 |
| and unencumbered cash balance in the Seat Belt Education Fund | 72493 |
| (Fund 8440) to the Trauma and Emergency Medical Services Fund | 72494 |
| (Fund 83M0). Upon completion of the transfer, Fund 8440 is | 72495 |
| abolished. The Director shall cancel any existing encumbrances | 72496 |
| against appropriation item 761613, Seat Belt Education Program, | 72497 |
| and reestablish them against appropriation item 765624, Operating | 72498 |

Expense - Trauma and EMS. The reestablished encumbrance amounts 72499
are hereby appropriated. 72500

CASH TRANSFERS BETWEEN FUNDS 72501

Notwithstanding any provision of law to the contrary, the 72502
Director of Budget and Management, upon the written request of the 72503
Director of Public Safety, may approve the transfer of cash 72504
between the following six funds: the Trauma and Emergency Medical 72505
Services Fund (Fund 83M0), the Homeland Security Fund (Fund 5DS0), 72506
the Investigations Fund (Fund 5FL0), the Emergency Management 72507
Agency Service and Reimbursement Fund (Fund 4V30), the Justice 72508
Program Services Fund (Fund 4P60), and the State Bureau of Motor 72509
Vehicles Fund (Fund 4W40). 72510

CASH TRANSFERS TO SECURITY, INVESTIGATIONS, AND POLICING FUND 72511

Notwithstanding any provision of law to the contrary, the 72512
Director of Budget and Management, upon the written request of the 72513
Director of Public Safety, may approve the transfer of cash from 72514
the Continuing Professional Training Fund (Fund 5Y10), the State 72515
Highway Patrol Contraband, Forfeiture, and Other Fund (Fund 83C0), 72516
the Trauma and Emergency Medical Services Fund (Fund 83M0), and 72517
the Highway Safety Salvage and Exchange Highway Patrol Fund (Fund 72518
8410) to the Security, Investigations, and Policing Fund (Fund 72519
8400). 72520

CASH TRANSFERS OF SEAT BELT FINE REVENUES 72521

Notwithstanding any provision of law to the contrary, the 72522
Controlling Board, upon request of the Director of Public Safety, 72523
may approve the transfer of cash between the following ~~four~~ three 72524
funds that receive fine revenues from enforcement of the mandatory 72525
seat belt law: the Trauma and Emergency Medical Services Fund 72526
(Fund 83M0), the Elementary School Program Fund (Fund 83N0), and 72527
the Trauma and Emergency Medical Services Grants Fund (Fund 83P0). 72528

STATE DISASTER RELIEF 72529

The State Disaster Relief Fund (Fund 5330) may accept 72530
transfers of cash and appropriations from Controlling Board 72531
appropriation items for Ohio Emergency Management Agency disaster 72532
response costs and disaster program management costs, and may also 72533
be used for the following purposes: 72534

(A) To accept transfers of cash and appropriations from 72535
Controlling Board appropriation items for Ohio Emergency 72536
Management Agency public assistance and mitigation program match 72537
costs to reimburse eligible local governments and private 72538
nonprofit organizations for costs related to disasters; 72539

(B) To accept and transfer cash to reimburse the costs 72540
associated with Emergency Management Assistance Compact (EMAC) 72541
deployments; 72542

(C) To accept disaster related reimbursement from federal, 72543
state, and local governments. The Director of Budget and 72544
Management may transfer cash from reimbursements received by this 72545
fund to other funds of the state from which transfers were 72546
originally approved by the Controlling Board. 72547

(D) To accept transfers of cash and appropriations from 72548
Controlling Board appropriation items to fund the State Disaster 72549
Relief Program, for disasters that have been declared by the 72550
Governor, and the State Individual Assistance Program for 72551
disasters that have been declared by the Governor and the federal 72552
Small Business Administration. The Ohio Emergency Management 72553
Agency shall publish and make available application packets 72554
outlining procedures for the State Disaster Relief Program and the 72555
State Individual Assistance Program. 72556

JUSTICE ASSISTANCE GRANT FUND 72557

The federal payments made to the state for the Byrne Justice 72558
Assistance Grants Program under Title II of Division A of the 72559
American Recovery and Reinvestment Act of 2009 shall be deposited 72560

to the credit of the Justice Assistance Grant Fund (Fund 3DE0), 72561
which is hereby created in the state treasury. All investment 72562
earnings of the fund shall be credited to the fund. 72563

FEDERAL STIMULUS - JUSTICE PROGRAMS 72564

The federal payments made to the state for the Violence 72565
Against Women Formula Grant under Title II of Division A of the 72566
American Recovery and Reinvestment Act of 2009 shall be deposited 72567
to the credit of the Federal Stimulus - Justice Programs Fund 72568
(Fund 3DH0). 72569

TRANSFER FROM STATE FIRE MARSHAL FUND TO EMERGENCY MANAGEMENT 72570
AGENCY SERVICE AND REIMBURSEMENT FUND 72571

On July 1 of each fiscal year, or as soon as possible 72572
thereafter, the Director of Budget and Management shall transfer 72573
\$200,000 in cash from the State Fire Marshal Fund (Fund 5460) to 72574
the Emergency Management Agency Service and Reimbursement Fund 72575
(Fund 4V30) to be distributed to the Ohio Task Force One - Urban 72576
Search and Rescue Unit and other urban search and rescue programs 72577
around the state. 72578

FAMILY VIOLENCE PREVENTION FUND 72579

Notwithstanding any provision of law to the contrary, in each 72580
of fiscal years 2012 and 2013, the first \$750,000 received to the 72581
credit of the Family Violence Prevention Fund (Fund 5BK0) shall be 72582
appropriated to appropriation item 768689, Family Violence Shelter 72583
Programs, and the next \$400,000 received to the credit of Fund 72584
5BK0 in each of those fiscal years shall be appropriated to 72585
appropriation item 768687, Criminal Justice Services - Operating. 72586
Any moneys received to the credit of Fund 5BK0 in excess of the 72587
aforementioned appropriated amounts in each fiscal year shall, 72588
upon the approval of the Controlling Board, be used to provide 72589
grants to family violence shelters in Ohio. 72590

SARA TITLE III HAZMAT PLANNING 72591

The SARA Title III HAZMAT Planning Fund (Fund 6810) is 72592
entitled to receive grant funds from the Emergency Response 72593
Commission to implement the Emergency Management Agency's 72594
responsibilities under Chapter 3750. of the Revised Code. 72595

COLLECTIVE BARGAINING INCREASES 72596

Notwithstanding division (D) of section 127.14 and division 72597
(B) of section 131.35 of the Revised Code, except for the General 72598
Revenue Fund, the Controlling Board may, upon the request of 72599
either the Director of Budget and Management, or the Department of 72600
Public Safety with the approval of the Director of Budget and 72601
Management, increase appropriations for any fund, as necessary for 72602
the Department of Public Safety, to assist in paying the costs of 72603
increases in employee compensation that have occurred pursuant to 72604
collective bargaining agreements under Chapter 4117. of the 72605
Revised Code and, for exempt employees, under section 124.152 of 72606
the Revised Code. 72607

CASH BALANCE FUND REVIEW 72608

Not later than the first day of April in each fiscal year of 72609
the biennium, the Director of Budget and Management shall review 72610
the cash balances for each fund, except the State Highway Safety 72611
Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 72612
4W40), in the State Highway Safety Fund Group, and shall recommend 72613
to the Controlling Board an amount to be transferred to the credit 72614
of Fund 7036 or Fund 4W40, as appropriate. 72615

Section 601.11. That existing Section 205.10 of Am. Sub. H.B. 72616
114 of the 129th General Assembly, as amended by Am. Sub. H.B. 153 72617
of the 129th General Assembly, is hereby repealed. 72618

Section 601.20. That Section 201 of Sub. H.B. 123 of the 72619
129th General Assembly be amended to read as follows: 72620

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.

| FND AI | AI TITLE | Appropriations | | |
|-------------|--|----------------|--|-------|
| | BWC BUREAU OF WORKERS' COMPENSATION | | | 72627 |
| | Workers' Compensation Fund Group | | | 72628 |
| 7023 855401 | William Green Lease | \$ 18,291,365 | \$ 17,533,370 | 72629 |
| | Payments to OBA | | | |
| 7023 855407 | Claims, Risk and Medical Management | \$ 125,427,732 | 124,192,959 <u>122,492,959</u> | 72630 |
| 7023 855408 | Fraud Prevention | \$ 11,331,154 | \$ 11,164,226 | 72631 |
| 7023 855409 | Administrative Services | \$ 101,724,950 | 104,136,037 <u>103,346,037</u> | 72632 |
| 7023 855410 | Attorney General Payments | \$ 4,621,850 | \$ 4,621,850 | 72633 |
| 8220 855606 | Coal Workers' Fund | \$ 150,586 | \$ 147,666 | 72634 |
| 8230 855608 | Marine Industry | \$ 76,532 | \$ 75,527 | 72635 |
| 8250 855605 | Disabled Workers Relief Fund | \$ 322,266 | \$ 319,718 | 72636 |
| 8260 855609 | Safety and Hygiene Operating | \$ 20,382,567 | \$ 20,161,132 | 72637 |
| 8260 855610 | Gear Program | \$ 4,000,000 | \$ 4,000,000 | 72638 |
| 8290 855604 | Long Term Care Loan Program | \$ 1,000,000 | 1,000,000 <u>100,000</u> | 72639 |
| | TOTAL WCF Workers' Compensation Fund Group | \$ 287,329,002 | 287,352,485 <u>283,962,485</u> | 72640 |
| | Federal Special Revenue Fund Group | | | 72642 |
| 3490 855601 | OSHA Enforcement | \$ 1,670,998 | \$ 1,647,515 | 72643 |

| | | | | | |
|-----------------------------------|----|-------------|----|------------------------|-------|
| TOTAL FED Federal Special Revenue | \$ | 1,670,998 | \$ | 1,647,515 | 72644 |
| Fund Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 289,000,000 | \$ | 289,000,000 | 72645 |
| | | | | <u>285,610,000</u> | |

WILLIAM GREEN LEASE PAYMENTS 72646

The foregoing appropriation item 855401, William Green Lease 72647
 Payments to OBA, shall be used for lease payments to the Ohio 72648
 Building Authority, and these appropriations shall be used to meet 72649
 all payments at the times they are required to be made during the 72650
 period from July 1, 2011, to June 30, 2013, by the Bureau of 72651
 Workers' Compensation to the Ohio Building Authority pursuant to 72652
 leases and agreements made under Chapter 152. of the Revised Code 72653
 and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 72654
 Of the amounts received in Fund 7023, appropriation item 855401, 72655
 William Green Lease Payments to OBA, up to \$35,824,735 shall be 72656
 restricted for lease rental payments to the Ohio Building 72657
 Authority. If it is determined that additional appropriations are 72658
 necessary for such purpose, such amounts are hereby appropriated. 72659

Notwithstanding any provision of law to the contrary, all 72660
 tenants of the William Green Building not funded by the Workers' 72661
 Compensation Fund (Fund 7023) shall pay their fair share of the 72662
 costs of lease payments to the Workers' Compensation Fund (Fund 72663
 7023) by intrastate transfer voucher. 72664

WORKERS' COMPENSATION FRAUD UNIT 72665

The Workers' Compensation Section Fund (Fund 1950) 72666
 administered by the Attorney General shall receive payments from 72667
 the Bureau of Workers' Compensation at the beginning of each 72668
 quarter of each fiscal year to fund expenses of the Workers' 72669
 Compensation Fraud Unit within the Attorney General's Office. Of 72670
 the foregoing appropriation item 855410, Attorney General 72671
 Payments, \$828,200 in fiscal year 2012 and \$828,200 in fiscal year 72672
 2013 shall be used to provide these payments. 72673

SAFETY AND HYGIENE 72674

Notwithstanding section 4121.37 of the Revised Code, the 72675
Treasurer of State shall transfer \$20,382,567 cash in fiscal year 72676
2012 and \$20,161,132 cash in fiscal year 2013 from the State 72677
Insurance Fund to the Safety and Hygiene Fund (Fund 8260). 72678

OSHA ON-SITE CONSULTATION PROGRAM 72679

The Bureau of Workers' Compensation may designate a portion 72680
of appropriation item 855609, Safety and Hygiene Operating, to be 72681
used to match federal funding for the federal Occupational Safety 72682
and Health Administration's (OSHA) on-site consultation program. 72683

VOCATIONAL REHABILITATION 72684

The Bureau of Workers' Compensation and the Rehabilitation 72685
Services Commission shall enter into an interagency agreement for 72686
the provision of vocational rehabilitation services and staff to 72687
mutually eligible clients. The bureau shall provide \$605,407 in 72688
fiscal year 2012 and \$605,407 in fiscal year 2013 from the State 72689
Insurance Fund to fund vocational rehabilitation services and 72690
staff in accordance with the interagency agreement. 72691

FUND BALANCE 72692

Any unencumbered cash balance in excess of \$45,000,000 in the 72693
Workers' Compensation Fund (Fund 7023) on the thirtieth day of 72694
June of each fiscal year shall be used to reduce the 72695
administrative cost rate charged to employers to cover 72696
appropriations for Bureau of Workers' Compensation operations. 72697

Section 601.21. That existing Section 201 of Sub. H.B. 123 of 72698
the 129th General Assembly is hereby repealed. 72699

Section 601.30. That Section 1 of H.B. 124 of the 129th 72700
General Assembly be amended to read as follows: 72701

Sec. 1. All items in this section are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this section, those in the first column are for fiscal year 2012, and those in the second column are for fiscal year 2013.

| | | Appropriations | | |
|--|-------------------------------|----------------|---|-------|
| FND AI | AI TITLE | FY 2012 | FY 2013 | |
| OIC INDUSTRIAL COMMISSION | | | | 72709 |
| Workers' Compensation Fund Group | | | | 72710 |
| 5W30 845321 | Operating Expenses | \$ 50,100,000 | \$ 48,900,000 <u>47,732,000</u> | 72711 |
| 5W30 845402 | Rent - William Green Building | \$ 5,500,000 | \$ 5,500,000 | 72712 |
| 5W30 845410 | Attorney General Payments | \$ 3,900,000 | \$ 4,000,000 | 72713 |
| TOTAL WCF Workers' Compensation Fund Group | | | | 72714 |
| | | \$ 59,500,000 | \$ 58,400,000 <u>57,232,000</u> | 72715 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ 59,500,000 | \$ 58,400,000 <u>57,232,000</u> | 72716 |

RENT - WILLIAM GREEN BUILDING 72717

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. 72718
72719
72720
72721

Section 601.31. That existing Section 1 of H.B. 124 of the 129th General Assembly is hereby repealed. 72722
72723

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, 209.30, 211.10, 215.10, 215.20, 223.10, 229.10, 243.10, 261.10.40, 261.10.70, 72724
72725
72726

261.20.10, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 72727
 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 72728
 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 263.10.90, 72729
 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 267.10.40, 72730
 267.30.20, 267.30.40, 279.10, 283.10, 283.20, 283.30, 291.10, 72731
 307.10, 309.10, 309.30.10, 309.30.30, 309.30.33, 309.30.53, 72732
 309.35.73, 315.10, 327.10, 335.10, 337.10, 343.10, 343.40, 365.10, 72733
 367.10, 369.10, 371.10, 371.50.61, 371.60.70, 371.60.80, 373.10, 72734
 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 503.50, 521.70, 72735
 and 701.40 of Am. Sub. H.B. 153 of the 129th General Assembly be 72736
 amended to read as follows: 72737

Sec. 205.10. ADJ ADJUTANT GENERAL 72738

General Revenue Fund 72739

| | | | | | | | |
|-----------|--------|-----------------------|----|-----------|----|----------------------|-------|
| GRF | 745401 | Ohio Military Reserve | \$ | 12,308 | \$ | 12,308 | 72740 |
| GRF | 745404 | Air National Guard | \$ | 1,810,606 | \$ | 1,810,606 | 72741 |
| GRF | 745407 | National Guard | \$ | 400,000 | \$ | 400,000 | 72742 |
| | | Benefits | | | | | |
| GRF | 745409 | Central | \$ | 2,692,098 | \$ | 2,692,098 | 72743 |
| | | Administration | | | | <u>2,682,098</u> | |
| GRF | 745499 | Army National Guard | \$ | 3,687,888 | \$ | 3,689,871 | 72744 |
| TOTAL GRF | | General Revenue Fund | \$ | 8,602,900 | \$ | 8,604,883 | 72745 |
| | | | | | | <u>8,594,883</u> | |

General Services Fund Group 72746

| | | | | | | | |
|------|--------|---------------------|----|-----------|----|---------|-------|
| 5340 | 745612 | Property Operations | \$ | 534,304 | \$ | 534,304 | 72747 |
| | | Management | | | | | |
| 5360 | 745605 | Marksmanship | \$ | 128,600 | \$ | 128,600 | 72748 |
| | | Activities | | | | | |
| 5360 | 745620 | Camp Perry and | \$ | 1,178,311 | \$ | 978,846 | 72749 |
| | | Buckeye Inn | | | | | |
| | | Operations | | | | | |

| | | | | | | | |
|------------------------------------|-------------------------|---------------------|----|------------|----|-----------------------|-------|
| 5370 | 745604 | Ohio National Guard | \$ | 62,000 | \$ | 62,000 | 72750 |
| | | Facilities | | | | | |
| | | Maintenance | | | | | |
| TOTAL GSF | General Services Fund | | \$ | 1,903,215 | \$ | 1,703,750 | 72751 |
| Group | | | | | | | |
| Federal Special Revenue Fund Group | | | | | | | 72752 |
| 3410 | 745615 | Air National Guard | \$ | 2,977,692 | \$ | 2,977,692 | 72753 |
| | | Base Security | | | | | |
| 3420 | 745616 | Army National Guard | \$ | 10,970,050 | \$ | 10,970,050 | 72754 |
| | | Service Agreement | | | | | |
| 3E80 | 745628 | Air National Guard | \$ | 16,958,595 | \$ | 16,958,595 | 72755 |
| | | Operations and | | | | | |
| | | Maintenance | | | | | |
| 3R80 | 745603 | Counter Drug | \$ | 25,000 | \$ | 25,000 | 72756 |
| | | Operations | | | | | |
| TOTAL FED | Federal Special Revenue | | \$ | 30,931,337 | \$ | 30,931,337 | 72757 |
| Fund Group | | | | | | | |
| State Special Revenue Fund Group | | | | | | | 72758 |
| 5U80 | 745613 | Community Match | \$ | 250,000 | \$ | 250,000 | 72759 |
| | | Armories | | | | | |
| TOTAL SSR | State Special Revenue | | \$ | 250,000 | \$ | 250,000 | 72760 |
| Fund Group | | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 41,687,452 | \$ | 41,489,970 | 72761 |
| | | | | | | <u>41,479,970</u> | |

NATIONAL GUARD BENEFITS 72762

The foregoing appropriation item 745407, National Guard 72763
Benefits, shall be used for purposes of sections 5919.31 and 72764
5919.33 of the Revised Code, and for administrative costs of the 72765
associated programs. 72766

For active duty members of the Ohio National Guard who died 72767
after October 7, 2001, while performing active duty, the death 72768
benefit, pursuant to section 5919.33 of the Revised Code, shall be 72769

paid to the beneficiary or beneficiaries designated on the 72770
member's Servicemembers' Group Life Insurance Policy. 72771

STATE ACTIVE DUTY COSTS 72772

Of the foregoing appropriation item 745409, Central 72773
Administration, \$50,000 in each fiscal year shall be used for the 72774
purpose of paying expenses related to state active duty of members 72775
of the Ohio organized militia, in accordance with a proclamation 72776
of the Governor. Expenses include, but are not limited to, the 72777
cost of equipment, supplies, and services, as determined by the 72778
Adjutant General's Department. 72779

Sec. 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES 72780

General Revenue Fund 72781

| | | | | | | | |
|-----|---------------|---------------------------------|----|------------|----|-------------------------------|-------|
| GRF | 100403 | Public Employees | \$ | 400,000 | \$ | 400,000 | 72782 |
| | | Health Care Program | | | | <u>344,000</u> | |
| GRF | 100415 | OAKS Rental Payments | \$ | 23,024,500 | \$ | 23,006,300 | 72783 |
| GRF | 100416 | STARS Lease Rental | \$ | 4,970,700 | \$ | 4,971,300 | 72784 |
| | | Payments | | | | | |
| GRF | 100418 | Web Sites and Business | \$ | 2,895,063 | \$ | 2,795,176 <u>0</u> | 72785 |
| | | Gateway | | | | | |
| GRF | 100419 | IT Security | \$ | 742,535 | \$ | 742,648 <u>0</u> | 72786 |
| | | Infrastructure | | | | | |
| GRF | 100439 | Equal Opportunity | \$ | 625,000 | \$ | 625,000 <u>0</u> | 72787 |
| | | Certification Programs | | | | | |
| GRF | 100447 | OBA - Building Rent | \$ | 53,260,000 | \$ | 83,504,200 | 72788 |
| | | Payments | | | | | |
| GRF | 100448 | OBA - Building | \$ | 21,000,000 | \$ | 21,000,000 | 72789 |
| | | Operating Payments | | | | | |
| GRF | 100449 | DAS - Building | \$ | 7,551,245 | \$ | 7,551,571 | 72790 |
| | | Operating Payments | | | | | |
| GRF | 100451 | Minority Affairs | \$ | 24,016 | \$ | 24,016 <u>0</u> | 72791 |
| GRF | <u>100452</u> | <u>Efficiency & Results</u> | \$ | <u>0</u> | \$ | <u>650,000</u> | 72792 |

| | | <u>Program</u> | | | | | |
|-----------------------------|----------------------|----------------------------|----|-------------|----|-----------------------------|-------|
| GRF | <u>100456</u> | <u>State IT Services</u> | \$ | 0 | \$ | <u>3,537,824</u> | 72793 |
| GRF | <u>100457</u> | <u>Equal Opportunity</u> | \$ | 0 | \$ | <u>1,610,516</u> | 72794 |
| | | <u>Services</u> | | | | | |
| GRF | <u>100458</u> | <u>State Construction</u> | \$ | 0 | \$ | <u>2,745,751</u> | 72795 |
| | | <u>Management Services</u> | | | | | |
| GRF | 102321 | Construction | \$ | 920,000 | \$ | 920,000 <u>0</u> | 72796 |
| | | Compliance | | | | | |
| GRF | 130321 | State Agency Support | \$ | 2,779,457 | \$ | 2,780,032 | 72797 |
| | | Services | | | | <u>2,752,232</u> | |
| TOTAL GRF | General Revenue Fund | | \$ | 118,192,516 | \$ | 148,320,243 | 72798 |
| | | | | | | <u>151,673,694</u> | |
| General Services Fund Group | | | | | | | 72799 |
| 1120 | 100616 | DAS Administration | \$ | 5,974,625 | \$ | 5,886,524 | 72800 |
| | | | | | | <u>5,827,659</u> | |
| 1150 | 100632 | Central Service Agency | \$ | 911,995 | \$ | 912,305 | 72801 |
| | | | | | | <u>903,182</u> | |
| 1170 | 100644 | General Services | \$ | 13,000,000 | \$ | 13,000,000 | 72802 |
| | | Division - Operating | | | | | |
| 1220 | 100637 | Fleet Management | \$ | 3,978,827 | \$ | 4,204,066 | 72803 |
| | | | | | | <u>4,412,025</u> | |
| 1250 | 100622 | Human Resources | \$ | 16,922,295 | \$ | 16,717,009 | 72804 |
| | | Division - Operating | | | | <u>16,549,839</u> | |
| 1250 | 100657 | Benefits Communication | \$ | 925,586 | \$ | 921,531 | 72805 |
| | | | | | | <u>912,316</u> | |
| 1280 | 100620 | Collective Bargaining | \$ | 3,462,529 | \$ | 3,464,148 | 72806 |
| | | | | | | <u>3,429,507</u> | |
| 1300 | 100606 | Risk Management | \$ | 10,349,494 | \$ | 12,149,884 | 72807 |
| | | Reserve | | | | <u>12,028,385</u> | |
| 1310 | 100639 | State Architect's | \$ | 9,812,132 | \$ | 9,813,342 | 72808 |
| | | Office | | | | <u>9,463,342</u> | |
| 1320 | 100631 | DAS Building | \$ | 11,000,000 | \$ | 11,000,000 | 72809 |
| | | Management | | | | | |

| | | | | | | | |
|---------|---------|------------------------|----|-------------|----|------------------------|-------|
| 1330 | 100607 | IT Services Delivery | \$ | 58,088,940 | \$ | 58,103,005 | 72810 |
| | | | | | | <u>57,521,975</u> | |
| 1880 | 100649 | Equal Opportunity | \$ | 939,559 | \$ | 863,013 | 72811 |
| | | Division - Operating | | | | | |
| 2100 | 100612 | State Printing | \$ | 17,597,054 | \$ | 16,659,526 | 72812 |
| 2290 | 100630 | IT Governance | \$ | 14,000,000 | \$ | 14,000,000 | 72813 |
| 2290 | 100640 | Leveraged Enterprise | \$ | 3,000,000 | \$ | 3,000,000 | 72814 |
| | | Purchases | | | | <u>2,816,535</u> | |
| 4270 | 100602 | Investment Recovery | \$ | 4,100,000 | \$ | 4,100,000 | 72815 |
| | | | | | | <u>4,000,000</u> | |
| 4N60 | 100617 | Major IT Purchases | \$ | 1,950,000 | \$ | 4,950,000 | 72816 |
| 4P30 | 100603 | DAS Information | \$ | 5,047,565 | \$ | 4,979,392 | 72817 |
| | | Services | | | | <u>4,929,598</u> | |
| 5C20 | 100605 | MARCS Administration | \$ | 14,075,705 | \$ | 14,077,467 | 72818 |
| 5C30 | 100608 | Skilled Trades | \$ | 404,297 | \$ | 404,375 | 72819 |
| | | | | | | <u>204,375</u> | |
| 5EB0 | 100635 | OAKS Support | \$ | 19,000,539 | \$ | 19,003,108 | 72820 |
| | | Organization | | | | <u>18,813,077</u> | |
| 5EB0 | 100656 | OAKS Updates and | \$ | 12,265,952 | \$ | 8,743,462 | 72821 |
| | | Developments | | | | <u>8,656,027</u> | |
| 5HU0 | 100655 | Construction Reform | \$ | 150,000 | \$ | 150,000 | 72822 |
| | | Demo Compliance | | | | | |
| 5L70 | 100610 | Professional | \$ | 2,496,679 | \$ | 2,496,760 | 72823 |
| | | Development | | | | | |
| 5V60 | 100619 | Employee Educational | \$ | 800,000 | \$ | 850,000 | 72824 |
| | | Development | | | | | |
| 5X30 | 100634 | Centralized Gateway | \$ | 2,052,308 | \$ | 2,052,308 | 72825 |
| | | Enhancement | | | | | |
| TOTAL | GSF | General Services Fund | | | | | 72826 |
| Group | | | \$ | 232,306,081 | \$ | 232,501,225 | 72827 |
| | | | | | | <u>230,566,916</u> | |
| Federal | Special | Revenue Fund Group | | | | | 72828 |
| 3AJ0 | 100654 | ARRA Broadband Mapping | \$ | 270,756 | \$ | 106,347 | 72829 |

| | | | |
|-----------------------------------|----|-------------|------------------------------|
| Grant | | | |
| TOTAL FED Federal Special Revenue | | | 72830 |
| Fund Group | \$ | 270,756 | \$ 106,347 72831 |
| State Special Revenue Fund Group | | | 72832 |
| 5JQ0 100658 | \$ | 2,000,000 | 1,000,000 72833 |
| | | | <u>990,000</u> |
| Licensing System | | | |
| TOTAL SSR State Special Revenue | | | 72834 |
| Fund Group | \$ | 2,000,000 | 1,000,000 72835 |
| | | | <u>990,000</u> |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 352,769,353 | 381,927,815 72836 |
| | | | <u>383,336,957</u> |

Sec. 207.10.80. DAS - BUILDING OPERATING PAYMENTS 72838

The foregoing appropriation item 100449, DAS - Building 72839
 Operating Payments, shall be used to pay the rent expenses of 72840
 veterans organizations pursuant to section 123.024 of the Revised 72841
 Code in fiscal years 2012 and 2013. 72842

The foregoing appropriation item, 100449, DAS - Building 72843
 Operating Payments, also may be used to provide funding for the 72844
 cost of property appraisals or building studies that the 72845
 Department of Administrative Services may be required to obtain 72846
 for property that is being sold by the state or property under 72847
 consideration to be renovated or purchased by the state. 72848

Notwithstanding section 125.28 of the Revised Code, the 72849
 remaining portion of the appropriation may be used to pay the 72850
 operating expenses of state facilities maintained by the 72851
 Department of Administrative Services that are not billed to 72852
building tenants, or other costs associated with the Voinovich 72853
Center in Youngstown, Ohio. These expenses may include, but are 72854
 not limited to, the costs for vacant space and space undergoing 72855
 renovation, and the rent expenses of tenants that are relocated 72856

because of building renovations. These payments shall be processed 72857
by the Department of Administrative Services through intrastate 72858
transfer vouchers and placed in the Building Management Fund (Fund 72859
1320). 72860

STATE IT SERVICES

72861

The foregoing appropriation item 100456, State IT Services, 72862
shall be used to pay costs associated with the Ohio Business 72863
Gateway, State Portal, and Shared Hosting Service that were 72864
formerly paid from appropriation item 100418, Web Sites and 72865
Business Gateway, and costs associated with statewide operators 72866
and the Ohio Geographically Referenced Information Program that 72867
were formerly paid from appropriation item 100419, IT Security 72868
Infrastructure. The Director of Budget and Management shall cancel 72869
any existing encumbrances against appropriation items 100418, Web 72870
Site and Business Gateway and 100419, IT Security Infrastructure, 72871
and reestablish them against appropriation item 100456, State IT 72872
Services. The reestablished encumbrance amounts are hereby 72873
appropriated. 72874

EQUAL OPPORTUNITY SERVICES

72875

The foregoing appropriation item 100457, Equal Opportunity 72876
Services, shall be used to pay costs associated with the 72877
certification of businesses for participation in the Minority 72878
Business Enterprise and Encouraging Diversity, Growth and Equity 72879
Programs that were formerly paid from appropriation item 100439, 72880
Equal Opportunity Certification Programs; the activities of the 72881
Ohio Dr. Martin Luther King, Jr. Holiday Commission that were 72882
formerly paid from appropriation item 100451, Minority Affairs; 72883
and the monitoring of equal employment opportunity (EEO) and 72884
affirmative action requirements to ensure contractors bidding on 72885
and receiving contracts comply with EEO laws, rules, and 72886
regulations that were formerly paid from appropriation item 72887
102321, Construction Compliance. The Director of Budget and 72888

Management shall cancel any existing encumbrances against 72889
appropriation items 100439, Equal Opportunity Certification 72890
Programs; 100451, Minority Affairs; and 102321, Construction 72891
Compliance, and reestablish them against appropriation item 72892
100457, Equal Opportunity Services. The reestablished encumbrance 72893
amounts are hereby appropriated. 72894

STATE CONSTRUCTION MANAGEMENT SERVICES 72895

The foregoing appropriation item 100458, State Construction 72896
Management Services, shall be used to pay costs of statewide 72897
shared construction-related services and capital improvement 72898
project management services provided through the state's 72899
enterprise resource planning system. 72900

CASH TRANSFER FROM THE WORKFORCE DEVELOPMENT FUND TO THE 72901
HUMAN RESOURCES SERVICES FUND 72902

Upon request of the Director of Administrative Services, in 72903
FY 2013, the Director of Budget and Management shall transfer up 72904
to \$975,000 from the Workforce Development Fund (Fund 5D70) to the 72905
Human Resources Services Fund (Fund 1250) to support one-time 72906
human resources administration activities for state agencies. 72907

Sec. 207.20.10. GENERAL SERVICE CHARGES 72908

The Department of Administrative Services, with the approval 72909
of the Director of Budget and Management, shall establish charges 72910
for recovering the costs of administering the programs funded by 72911
the General Services Fund (Fund 1170) and the State Printing Fund 72912
(Fund 2100). Such charges within Fund 1170 may be used to recover 72913
the cost of paying a vendor to establish reduced pricing for 72914
contracted supplies or services. 72915

If the Director of Administrative Services determines that 72916
additional amounts are necessary to pay for consulting and 72917
administrative costs related to securing lower pricing, the 72918

Director of Administrative Services may request that the Director 72919
of Budget and Management approve additional expenditures. Such 72920
approved additional amounts are appropriated to appropriation item 72921
100644, General Services Division-Operating. 72922

COMPRESSED NATURAL GAS STUDY COMMITTEE 72923

Of the foregoing appropriation item 100637, Fleet Management, 72924
up to \$250,000 in fiscal year 2013 shall be used by the Compressed 72925
Natural Gas Study Committee, created by Section 701.80 of this 72926
act, to examine the use of compressed natural gas in the state's 72927
motor vehicle fleet. 72928

Sec. 207.20.30. EQUAL OPPORTUNITY PROGRAM 72929

The Department of Administrative Services, with the approval 72930
of the Director of Budget and Management, shall establish charges 72931
for recovering the costs of administering the activities supported 72932
by the State EEO Fund (Fund 1880). These charges shall be 72933
deposited to the credit of the State EEO Fund (Fund 1880) upon 72934
payment made by state agencies, state-supported or state-assisted 72935
institutions of higher education, and tax-supported agencies, 72936
municipal corporations, and other political subdivisions of the 72937
state, for services rendered. 72938

LEVERAGED ENTERPRISE PURCHASES 72939

The foregoing appropriation item 100640, Leveraged Enterprise 72940
Purchases, shall be used by the Department of Administrative 72941
Services to make information technology purchases for the benefit 72942
of one or more government entities as authorized under division 72943
(G) of section 125.18 of the Revised Code. If the Director of 72944
Administrative Services determines that the existing appropriation 72945
is insufficient to timely make such purchases, the Director of 72946
Administrative Services shall seek the approval of the Director of 72947
Budget and Management to make the requested purchases. Upon the 72948

approval of the Director of Budget and Management, the additional 72949
amounts necessary to make the purchases are hereby appropriated. 72950

~~Sec. 207.20.90. CASH TRANSFERS FROM THE MAJOR IT PURCHASES~~ 72951
~~FUND~~ 72952

~~Upon request of the Director of Administrative Services, the~~ 72953
~~Director of Budget and Management may make the following transfers~~ 72954
~~from the Major IT Purchases Fund (Fund 4N60):-~~ 72955

~~(1) Up to \$2,800,000 in each fiscal year of the biennium to~~ 72956
~~the State Architect's Fund (Fund 1310) to support the OAKS Capital~~ 72957
~~Improvements Module and other costs of the State Architect's~~ 72958
~~Office that are not directly related to capital projects managed~~ 72959
~~by the State Architect;~~ 72960

~~(2) Up to \$310,276 in fiscal year 2012 and up to \$305,921 in~~ 72961
~~fiscal year 2013 to the Director's Office Fund (Fund 1120) to~~ 72962
~~support operating expenses of the Accountability and Results~~ 72963
~~Initiative.~~ 72964

CASH TRANSFERS TO THE MAJOR IT PURCHASES FUND 72965

Upon request of the Director of Administrative Services, the 72966
Director of Budget and Management may transfer up to \$4,000,000 72967
from the OAKS Support Organization Fund (Fund 5EB0) to the Major 72968
IT Purchases Fund (Fund 4N60). This amount represents cash 72969
transferred from Fund 4N60 during fiscal year 2010 pursuant to 72970
Section 207.30.80 of Am. Sub. H.B. 1 of the 128th General 72971
Assembly. Any portion of appropriation item 100617, Major IT 72972
Purchases, that is unencumbered and unexpended at the end of 72973
fiscal year 2012 is hereby reappropriated for fiscal year 2013. 72974

Sec. 209.10. AGE DEPARTMENT OF AGING 72975

General Revenue Fund 72976
GRF 490321 Operating Expenses \$ 1,501,616 \$ ~~1,502,442~~ 72977

| | | | | | | |
|------------------------------------|-------------------------|---|----|------------|-------------------|-----------------------------|
| | | | | | <u>1,487,418</u> | |
| GRF | 490410 | Long-Term Care Ombudsman | \$ | 482,271 | \$ | 482,271 72978 |
| | | | | | <u>477,448</u> | |
| GRF | 490411 | Senior Community Services | \$ | 7,130,952 | \$ | 7,131,236 72979 |
| | | | | | <u>7,060,844</u> | |
| GRF | 490414 | Alzheimer's Respite | \$ | 1,917,740 | \$ | 1,917,757 72980 |
| | | | | | <u>1,895,245</u> | |
| GRF | 490423 | Long-Term Care Budget - State | \$ | 3,419,250 | \$ | 3,419,250 72981 |
| | | | | | <u>3,385,057</u> | |
| GRF | 490506 | National Senior Service Corps | \$ | 241,413 | \$ | 241,413 72982 |
| TOTAL GRF | General Revenue Fund | | \$ | 14,693,242 | \$ | 14,694,369 72983 |
| | | | | | <u>14,547,425</u> | |
| General Services Fund Group | | | | | | 72984 |
| 4800 | 490606 | Senior Community Outreach and Education | \$ | 372,518 | \$ | 372,523 72985 |
| TOTAL GSF | General Services Fund | | | | | 72986 |
| Group | | | \$ | 372,518 | \$ | 372,523 72987 |
| Federal Special Revenue Fund Group | | | | | | 72988 |
| 3220 | 490618 | Federal Aging Grants | \$ | 14,000,000 | \$ | 14,000,000 72989 |
| 3C40 | 490623 | Long-Term Care Budget | \$ | 3,525,000 | \$ | 3,525,000 72990 |
| 3M40 | 490612 | Federal Independence Services | \$ | 63,655,080 | \$ | 63,655,080 72991 |
| TOTAL FED | Federal Special Revenue | | | | | 72992 |
| Fund Group | | | \$ | 81,180,080 | \$ | 81,180,080 72993 |
| State Special Revenue Fund Group | | | | | | 72994 |
| 4C40 | 490609 | Regional Long-Term Care Ombudsman Program | \$ | 935,000 | \$ | 935,000 72995 |
| | | | | | <u>2,435,000</u> | |
| 5BA0 | 490620 | Ombudsman Support | \$ | 750,000 | \$ | 750,000 72996 |
| 5K90 | 490613 | Long-Term Care | \$ | 1,059,400 | \$ | 1,059,400 72997 |

| | | | | | |
|---------------------------------|---------------------|---------------|--------------------------|--|-------|
| | Consumers Guide | | | | |
| 5W10 490616 | Resident Services | \$ 344,692 | \$ 344,700 | | 72998 |
| | Coordinator Program | | | | |
| TOTAL SSR State Special Revenue | | | | | 72999 |
| Fund Group | | \$ 3,089,092 | \$ 3,089,100 | | 73000 |
| | | | <u>4,589,100</u> | | |
| TOTAL ALL BUDGET FUND GROUPS | | \$ 99,334,932 | \$ 99,336,072 | | 73001 |
| | | | <u>100,689,128</u> | | |

Sec. 209.20. LONG-TERM CARE 73003

Pursuant to an interagency agreement, the Department of Job and Family Services ~~shall~~ may designate the Department of Aging to perform assessments under section 5111.204 of the Revised Code. The Department of Aging shall provide long-term care consultations under section 173.42 of the Revised Code to assist individuals in planning for their long-term health care needs.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation items 490423, Long_Term Care Budget - State, and 490623, Long_Term Care Budget, may be used to support the Department of Aging's administrative costs associated with operating the PASSPORT, Choices, Assisted Living, and PACE programs.

Sec. 209.30. LONG-TERM CARE OMBUDSMAN 73019

The foregoing appropriation item 490410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities as authorized in sections 173.14 to 173.27 and section 173.99 of the Revised Code.

SENIOR COMMUNITY SERVICES 73024

The foregoing appropriation item 490411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with senior community services funds, including, when possible, sliding-fee scale payment systems based on the income of service recipients.

ALZHEIMER'S RESPITE

The foregoing appropriation item 490414, Alzheimer's Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.

SENIOR COMMUNITY OUTREACH AND EDUCATION

The foregoing appropriation item 490606, Senior Community Outreach and Education, may be used to provide training to workers in the field of aging pursuant to division (G) of section 173.02 of the Revised Code.

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES AND FEDERAL AGING GRANTS

At the request of the Director of Aging, the Director of Budget and Management may transfer appropriation between appropriation items 490612, Federal Independence Services, and 490618, Federal Aging Grants. The amounts transferred shall not exceed 30 per cent of the appropriation from which the transfer is made. Any transfers shall be reported by the Department of Aging to the Controlling Board at the next scheduled meeting of the board.

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM

~~The~~ Of the foregoing appropriation item 490609, Regional 73056
Long-Term Care Ombudsman Program, \$935,000 in each fiscal year 73057
shall be used to pay the costs of operating the regional long-term 73058
care ombudsman programs designated by the Long-Term Care 73059
Ombudsman. 73060

Notwithstanding division (B) of section 173.26 of the Revised 73061
Code, of the foregoing appropriation item 490609, Regional 73062
Long-Term Care Ombudsman Program, \$1,500,000 in fiscal year 2013 73063
shall be used for costs associated with the Aging in Place Pilot 73064
Program. 73065

TRANSFER OF RESIDENT PROTECTION FUNDS 73066

In each fiscal year, the Director of Budget and Management 73067
may transfer up to \$750,000 cash from the Resident Protection Fund 73068
(Fund 4E30), which is used by the Department of Job and Family 73069
Services, to the Ombudsman Support Fund (Fund 5BA0), which is used 73070
by the Department of Aging. The moneys in the Ombudsman Support 73071
Fund may be used by the state office of the Long-Term Care 73072
Ombudsman Program and by regional ombudsman programs to promote 73073
person-centered care in nursing homes. 73074

On July 1, 2011, or as soon as possible thereafter, the 73075
Department of Aging shall certify to the Director of Budget and 73076
Management the amount of the cash balance in the Ombudsman Support 73077
Fund at the end of fiscal year 2011. 73078

LONG-TERM CARE CONSUMERS GUIDE 73079

The foregoing appropriation item 490613, Long-Term Care 73080
Consumers Guide, shall be used to conduct annual customer 73081
satisfaction surveys and to pay for other administrative expenses 73082
related to the publication of the Ohio Long-Term Care Consumer 73083
Guide. 73084

During fiscal year 2012 and fiscal year 2013, the Department 73085
of Aging shall identify methods and tools for assessing consumer 73086

satisfaction with adult care facilities and with the providers of 73087
home and community-based services. The Department shall also 73088
consider the development of a provider fee structure to support 73089
the inclusion of information about adult care facilities and 73090
providers of home and community-based services among the types of 73091
providers reviewed in the Ohio Long-Term Care Consumer Guide. 73092

Sec. 211.10. AGR DEPARTMENT OF AGRICULTURE 73093

General Revenue Fund 73094

GRF 700401 Animal Disease Control \$ 3,936,687 \$ ~~3,936,687~~ 73095
3,836,687

GRF 700403 Dairy Division \$ 1,088,115 \$ 1,088,115 73096

GRF 700404 Ohio Proud \$ 50,000 \$ 50,000 73097

GRF 700406 Consumer Analytical \$ 1,287,556 \$ 1,287,556 73098
Lab

GRF 700407 Food Safety \$ 848,792 \$ 848,792 73099

GRF 700409 Farmland Preservation \$ 72,750 \$ 72,750 73100

GRF 700412 Weights and Measures \$ 600,000 \$ 600,000 73101

GRF 700415 Poultry Inspection \$ 392,978 \$ 392,978 73102

GRF 700418 Livestock Regulation \$ 1,108,071 \$ 1,108,071 73103
Program

GRF 700424 Livestock Testing and \$ 102,770 \$ 102,770 73104
Inspections

GRF 700499 Meat Inspection \$ 4,175,097 \$ 4,175,097 73105
Program - State Share

GRF 700501 County Agricultural \$ 391,413 \$ 391,413 73106
Societies

TOTAL GRF General Revenue Fund \$ 14,054,229 \$ ~~14,054,229~~ 73107
13,954,229

General Services Fund Group 73108

5DA0 700644 Laboratory \$ 1,094,867 \$ 1,094,867 73109
Administration

| | | | | | | |
|------------------------------------|--------|-------------------------|----|-----------|----|-----------------|
| | | Support | | | | |
| 5GH0 | 700655 | Central Support | \$ | 4,456,842 | \$ | 4,456,842 73110 |
| | | Indirect Cost | | | | |
| TOTAL GSF | | General Services Fund | \$ | 5,551,709 | \$ | 5,551,709 73111 |
| Group | | | | | | |
| Federal Special Revenue Fund Group | | | | | | 73112 |
| 3260 | 700618 | Meat Inspection | \$ | 4,950,000 | \$ | 4,950,000 73113 |
| | | Program - Federal | | | | |
| | | Share | | | | |
| 3360 | 700617 | Ohio Farm Loan | \$ | 150,000 | \$ | 150,000 73114 |
| | | Revolving Fund | | | | |
| 3820 | 700601 | Cooperative Contracts | \$ | 2,000,000 | \$ | 2,000,000 73115 |
| 3AB0 | 700641 | Agricultural Easement | \$ | 1,000,000 | \$ | 1,000,000 73116 |
| 3J40 | 700607 | Indirect Cost | \$ | 600,000 | \$ | 600,000 73117 |
| 3R20 | 700614 | Federal Plant | \$ | 1,000,000 | \$ | 1,000,000 73118 |
| | | Industry | | | | |
| TOTAL FED | | Federal Special Revenue | | | | 73119 |
| Fund Group | | | \$ | 9,700,000 | \$ | 9,700,000 73120 |
| State Special Revenue Fund Group | | | | | | 73121 |
| 4960 | 700626 | Ohio Grape Industries | \$ | 846,611 | \$ | 846,611 73122 |
| 4970 | 700627 | Commodity Handlers | \$ | 483,402 | \$ | 483,402 73123 |
| | | Regulatory Program | | | | |
| 4C90 | 700605 | Commercial Feed and | \$ | 1,816,897 | \$ | 1,816,897 73124 |
| | | Seed | | | | |
| 4D20 | 700609 | Auction Education | \$ | 41,000 | \$ | 41,000 73125 |
| 4E40 | 700606 | Utility Radiological | \$ | 131,785 | \$ | 131,785 73126 |
| | | Safety | | | | |
| 4P70 | 700610 | Food Safety | \$ | 1,085,836 | \$ | 1,085,836 73127 |
| | | Inspection | | | | |
| 4R00 | 700636 | Ohio Proud Marketing | \$ | 30,500 | \$ | 30,500 73128 |
| 4R20 | 700637 | Dairy Industry | \$ | 1,758,247 | \$ | 1,758,247 73129 |
| | | Inspection | | | | |

| | | | | | | | |
|--|--------|---|----|------------|----|--|-------|
| 4T60 | 700611 | Poultry and Meat Inspection | \$ | 180,000 | \$ | 180,000 | 73130 |
| 4T70 | 700613 | Ohio Proud International and Domestic Market Development | \$ | 50,000 | \$ | 50,000 | 73131 |
| 5780 | 700620 | Ride Inspection Fees | \$ | 1,175,142 | \$ | 1,175,142 | 73132 |
| 5B80 | 700629 | Auctioneers | \$ | 359,823 | \$ | 359,823 | 73133 |
| 5FC0 | 700648 | Plant Pest Program | \$ | 1,164,000 | \$ | 1,164,000 | 73134 |
| 5H20 | 700608 | Metrology Lab and Scale Certification | \$ | 750,000 | \$ | 750,000 | 73135 |
| 5HP0 | 700656 | Livestock Care Standards Board | \$ | 80,000 | \$ | 80,000 | 73136 |
| 5L80 | 700604 | Livestock Management Program | \$ | 584,000 | \$ | 584,000 | 73137 |
| 6520 | 700634 | Animal and Consumer Analytical Laboratory | \$ | 4,366,383 | \$ | 4,366,383 | 73138 |
| 6690 | 700635 | Pesticide, Fertilizer, and Lime Inspection Program | \$ | 3,418,041 | \$ | 3,418,041 | 73139 |
| TOTAL SSR State Special Revenue | | | | | | | 73140 |
| Fund Group | | | \$ | 18,321,667 | \$ | 18,321,667 | 73141 |
| Clean Ohio Conservation Fund Group | | | | | | | 73142 |
| 7057 | 700632 | Clean Ohio Agricultural Easement | \$ | 310,000 | \$ | 310,000 | 73143 |
| TOTAL CLF Clean Ohio Conservation Fund Group | | | \$ | 310,000 | \$ | 310,000 | 73144 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 47,937,605 | \$ | 47,937,605 <u>47,837,605</u> | 73145 |
| COUNTY AGRICULTURAL SOCIETIES | | | | | | | 73146 |
| The foregoing appropriation item 700501, County Agricultural | | | | | | | 73147 |
| Societies, shall be used to reimburse county and independent | | | | | | | 73148 |

agricultural societies for expenses related to Junior Fair 73149
activities. 73150

ABOLISHMENT OF VARIOUS FUNDS 73151

Upon the effective date of this amendment, or as soon as 73152
possible thereafter, the Director of Budget and Management shall 73153
transfer the cash balances in the following twelve funds to the 73154
Indirect Cost Fund (Fund 5GH0): (1) the Federal Grants Fund (Fund 73155
3X60), (2) the Specialty Crops Support Fund (Fund 3X70), (3) the 73156
Fruits and Vegetables Fund (Fund 4930), (4) the Dairy Fund (Fund 73157
4V00), (5) the Animal Industry Fund (Fund 4VS0), (6) the Scale 73158
Certification Fund (Fund 5790), (7) the Weights and Measures 73159
Permits Fund (Fund 58F0), (8) the Food Policy Council Fund (Fund 73160
5FD0), (9) the Sustainable Agriculture Fund (Fund 5FE0), (10) the 73161
Pilot Farmland Preservation Fund (Fund 5GS0), (11) the Farm 73162
Service Electronic Filing Fund (Fund SY70), and (12) the Seed Fund 73163
(Fund SZ40). Upon completion of the cash transfers, the funds from 73164
which the required cash transfers were made are abolished. The 73165
Director shall cancel any existing encumbrances against applicable 73166
line items within the abolished funds and re-establish them 73167
against Fund 5GH0 appropriation item 700655, Central Support 73168
Indirect Cost. The re-established encumbrance amounts are hereby 73169
appropriated. 73170

CLEAN OHIO AGRICULTURAL EASEMENT 73171

The foregoing appropriation item 700632, Clean Ohio 73172
Agricultural Easement, shall be used by the Department of 73173
Agriculture in administering Ohio Agricultural Easement Fund (Fund 73174
7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to 73175
5301.70 of the Revised Code. 73176

Sec. 215.10. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 73177
SERVICES 73178

| | | | | | |
|------------------------------------|-----------|-----------------------|-----------|-----------------------|-------|
| General Revenue Fund | | | | | 73179 |
| GRF 038401 Treatment Services | \$ | 11,225,590 | \$ | 7,020,974 | 73180 |
| GRF 038404 Prevention Services | \$ | 868,659 | \$ | 868,659 | 73181 |
| GRF 038501 Medicaid Match | \$ | 23,959,113 | \$ | 0 | 73182 |
| TOTAL GRF General Revenue Fund | \$ | 36,053,362 | \$ | 7,889,633 | 73183 |
| General Services Fund | | | | | 73184 |
| 5T90 038616 Problem Gambling | \$ | 335,000 | \$ | 335,000 | 73185 |
| Services | | | | | |
| TOTAL GSF General Services Fund | \$ | 335,000 | \$ | 335,000 | 73186 |
| Group | | | | | |
| Federal Special Revenue Fund Group | | | | | 73187 |
| 3G40 038614 Substance Abuse Block | \$ | 69,000,000 | \$ | 69,000,000 | 73188 |
| Grant | | | | | |
| 3H80 038609 Demonstration Grants | \$ | 8,675,580 | \$ | 8,675,580 | 73189 |
| 3J80 038610 Medicaid | \$ | 69,200,000 | \$ | 0 | 73190 |
| 3N80 038611 Administrative | \$ | 300,000 | \$ | 300,000 | 73191 |
| Reimbursement | | | | | |
| TOTAL FED Federal Special Revenue | | | | | 73192 |
| Fund Group | \$ | 147,175,580 | \$ | 77,975,580 | 73193 |
| State Special Revenue Fund Group | | | | | 73194 |
| 4750 038621 Statewide Treatment | \$ | 16,000,000 | \$ | 14,000,000 | 73195 |
| 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> | 73196 |
| <u>Gambling and</u> | | | | | |
| <u>Addictions Fund</u> | | | | | |
| 5JW0 038615 Board Match | \$ | 3,000,000 | \$ | 3,000,000 | 73197 |
| Reimbursement | | | | | |
| 6890 038604 Education and | \$ | 75,000 | \$ | 75,000 | 73198 |
| Conferences | | | | | |
| TOTAL SSR State Special Revenue | | | | | 73199 |
| Fund Group | \$ | 19,075,000 | \$ | 17,075,000 | 73200 |
| | | <u>19,301,612</u> | | <u>23,521,364</u> | |

| | | | | | |
|------------------------------|----|------------------------|----|------------------------|-------|
| TOTAL ALL BUDGET FUND GROUPS | \$ | 202,638,942 | \$ | 103,275,213 | 73201 |
| | | <u>202,865,554</u> | | <u>109,721,577</u> | |

Sec. 215.20. ALCOHOL AND DRUG ADDICTION MEDICAID MATCH 73203

(A) As used in this section, "community alcohol and drug 73204
addiction Medicaid services" means services provided under the 73205
component, or aspect of the component, of the Medicaid program 73206
that the Department of Alcohol and Drug Addiction Services 73207
administers pursuant to a contract entered into with the 73208
Department of Job and Family Services under section 5111.91 of the 73209
Revised Code. 73210

(B) Subject to division (C) of this section, the foregoing 73211
appropriation item 038501, Medicaid Match, shall be used by the 73212
Department of Alcohol and Drug Addiction Services to make payments 73213
for community alcohol and drug addiction Medicaid services. 73214

(C) For state fiscal year 2012, the Department shall allocate 73215
foregoing appropriation item 038501, Medicaid Match, and a portion 73216
of appropriation item 038621, Statewide Treatment and Prevention, 73217
to boards of alcohol, drug addiction, and mental health services 73218
in accordance with a distribution methodology the Department shall 73219
establish. Notwithstanding sections 5111.911 and 5111.913 of the 73220
Revised Code, the boards shall use the funds allocated to them 73221
under this section to pay claims for community alcohol and drug 73222
addiction Medicaid services provided during fiscal year 2012. The 73223
boards shall use all federal financial participation that the 73224
Department receives for claims paid for community alcohol and drug 73225
addiction Medicaid services provided during fiscal year 2012 as 73226
the first payment source to pay claims for community alcohol and 73227
drug addiction Medicaid services provided during fiscal year 2012. 73228
The boards are not required to use any funds other than the funds 73229
allocated to them under this section and the federal financial 73230
participation received for claims for community alcohol and drug 73231

addiction Medicaid services provided during fiscal year 2012 to 73232
pay for such claims. 73233

(D) The Department shall enter into an agreement with each 73234
board regarding the issue of paying claims that are for community 73235
alcohol and drug addiction Medicaid services provided before July 73236
1, 2011, and submitted for payment on or after that date. Such 73237
claims shall be paid in accordance with the agreements. A board 73238
shall receive the federal financial participation received for 73239
claims for community alcohol and drug addiction Medicaid services 73240
that were provided before July 1, 2011, and paid by the board. 73241

STATEWIDE TREATMENT AND PREVENTION 73242

Of the foregoing appropriation item 038621, Statewide 73243
Treatment and Prevention, up to \$1,000,000 in fiscal year 2013 73244
shall be used to fund the pilot program for opioid- and 73245
alcohol-dependent offenders established under Section 737.70 of 73246
H.B. 487 of the 129th General Assembly. 73247

Sec. 223.10. AGO ATTORNEY GENERAL 73248

General Revenue Fund 73249

GRF 055321 Operating Expenses \$ 42,514,169 \$ 42,514,169 73250

GRF 055405 Law-Related Education \$ 100,000 \$ 100,000 73251

GRF 055411 County Sheriffs' Pay \$ 757,921 \$ 757,921 73252

Supplement

GRF 055415 County Prosecutors' \$ 831,499 \$ 831,499 73253

Pay Supplement

TOTAL GRF General Revenue Fund \$ 44,203,589 \$ 44,203,589 73254

General Services Fund Group 73255

1060 055612 General Reimbursement \$ 43,357,968 \$ 43,011,277 73256

1950 055660 Workers' Compensation \$ 8,415,504 \$ 8,415,504 73257

Section

4180 055615 Charitable \$ 7,286,000 \$ 7,286,000 73258

| | | | | | | | |
|------------------------------|---------------|--------------------------|-----------|-----------------------|-----------|-----------------------|-------|
| | | Foundations | | | | | |
| 4200 | 055603 | Attorney General | \$ | 1,871,674 | \$ | 1,839,074 | 73259 |
| | | Antitrust | | | | | |
| 4210 | 055617 | Police Officers' | \$ | 2,124,942 | \$ | 2,088,805 | 73260 |
| | | Training Academy Fee | | | | | |
| 4Z20 | 055609 | BCI Asset Forfeiture | \$ | 1,529,685 | \$ | 1,521,731 | 73261 |
| | | and Cost | | | | | |
| | | Reimbursement | | | | | |
| 5900 | 055633 | Peace Officer Private | \$ | 98,370 | \$ | 98,370 | 73262 |
| | | Security Fund | | | | | |
| 5A90 | 055618 | Telemarketing Fraud | \$ | 7,500 | \$ | 7,500 | 73263 |
| | | Enforcement | | | | | |
| 5L50 | 055619 | Law Enforcement | \$ | 300,222 | \$ | 0 | 73264 |
| | | Assistance Program | | | | | |
| <u>5LR0</u> | <u>055655</u> | <u>Peace Officer</u> | <u>\$</u> | <u>192,620</u> | <u>\$</u> | <u>4,629,409</u> | 73265 |
| | | <u>Training - Casino</u> | | | | | |
| 6310 | 055637 | Consumer Protection | \$ | 3,799,115 | \$ | 3,718,973 | 73266 |
| | | Enforcement | | | | | |
| TOTAL GSF | | General Services Fund | | | | | 73267 |
| Group | | | \$ | 68,790,980 | \$ | 67,987,234 | 73268 |
| | | | | <u>68,983,600</u> | | <u>72,616,643</u> | |
| Federal Special Revenue Fund | | | | | | | 73269 |
| Group | | | | | | | |
| 3060 | 055620 | Medicaid Fraud | \$ | 4,211,235 | \$ | 4,122,399 | 73270 |
| | | Control | | | | | |
| 3810 | 055611 | Civil Rights Legal | \$ | 402,540 | \$ | 402,540 | 73271 |
| | | Service | | | | | |
| 3830 | 055634 | Crime Victims | \$ | 13,000,000 | \$ | 13,000,000 | 73272 |
| | | Assistance | | | | | |
| 3E50 | 055638 | Attorney General | \$ | 1,223,606 | \$ | 1,222,172 | 73273 |
| | | Pass-Through Funds | | | | | |
| 3R60 | 055613 | Attorney General | \$ | 3,823,251 | \$ | 3,673,251 | 73274 |
| | | Federal Funds | | | | | |
| TOTAL FED | | Federal Special Revenue | | | | | 73275 |

| | | | | | | |
|--|--|----|------------|----|------------|-------|
| Fund Group | | \$ | 22,660,632 | \$ | 22,420,362 | 73276 |
| State Special Revenue Fund Group | | | | | | 73277 |
| 4020 055616 | Victims of Crime | \$ | 26,000,000 | \$ | 26,000,000 | 73278 |
| 4170 055621 | Domestic Violence Shelter | \$ | 25,000 | \$ | 25,000 | 73279 |
| 4190 055623 | Claims Section | \$ | 44,197,843 | \$ | 41,953,025 | 73280 |
| 4L60 055606 | DARE Programs | \$ | 4,477,962 | \$ | 4,477,962 | 73281 |
| 4Y70 055608 | Title Defect Recision | \$ | 600,000 | \$ | 600,000 | 73282 |
| 6590 055641 | Solid and Hazardous Waste Background Investigations | \$ | 662,227 | \$ | 651,049 | 73283 |
| TOTAL SSR | State Special Revenue | | | | | 73284 |
| Fund Group | | \$ | 75,963,032 | \$ | 73,707,036 | 73285 |
| Holding Account Redistribution Fund Group | | | | | | 73286 |
| R004 055631 | General Holding Account | \$ | 1,000,000 | \$ | 1,000,000 | 73287 |
| R005 055632 | Antitrust Settlements | \$ | 1,000 | \$ | 1,000 | 73288 |
| R018 055630 | Consumer Frauds | \$ | 750,000 | \$ | 750,000 | 73289 |
| R042 055601 | Organized Crime Commission Distributions | \$ | 25,025 | \$ | 25,025 | 73290 |
| R054 055650 | Collection Outside Counsel Payments | \$ | 4,500,000 | \$ | 4,500,000 | 73291 |
| TOTAL 090 | Holding Account | | | | | 73292 |
| Redistribution Fund Group | | \$ | 6,276,025 | \$ | 6,276,025 | 73293 |
| Tobacco Master Settlement Agreement Fund Group | | | | | | 73294 |
| J087 055635 | Law Enforcement Technology, Training, and Facility Enhancements | \$ | 2,300,000 | \$ | 0 | 73295 |
| U087 055402 | Tobacco Settlement Oversight, | \$ | 2,527,992 | \$ | 2,514,690 | 73296 |

Administration, and
 Enforcement

| | | | | | |
|--|----|------------------------|----|------------------------|-------|
| TOTAL TSF Tobacco Master Settlement Agreement Fund Group | \$ | 4,827,992 | \$ | 2,514,690 | 73297 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 222,722,250 | \$ | 217,108,936 | 73298 |
| | | <u>222,914,870</u> | | <u>221,738,345</u> | |

COUNTY SHERIFFS' PAY SUPPLEMENT 73299

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. 73300
 73301
 73302
 73303

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. 73304
 73305
 73306
 73307
 73308
 73309

COUNTY PROSECUTORS' PAY SUPPLEMENT 73310

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. 73311
 73312
 73313
 73314

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. 73315
 73316
 73317
 73318
 73319
 73320
 73321

GENERAL REIMBURSEMENT FUND 73322

Notwithstanding any other provision of law to the contrary, 73323

on July 1, 2011, or as soon as possible thereafter, the Director 73324
of Budget and Management shall transfer \$160,000 cash from the 73325
General Revenue Fund to the General Reimbursement Fund (Fund 1060) 73326
used by the Office of the Attorney General. 73327

WORKERS' COMPENSATION SECTION 73328

The Workers' Compensation Fund (Fund 1950) is entitled to 73329
receive payments from the Bureau of Workers' Compensation and the 73330
Ohio Industrial Commission at the beginning of each quarter of 73331
each fiscal year to fund legal services to be provided to the 73332
Bureau of Workers' Compensation and the Ohio Industrial Commission 73333
during the ensuing quarter. The advance payment shall be subject 73334
to adjustment. 73335

In addition, the Bureau of Workers' Compensation shall 73336
transfer payments at the beginning of each quarter for the support 73337
of the Workers' Compensation Fraud Unit. 73338

All amounts shall be mutually agreed upon by the Attorney 73339
General, the Bureau of Workers' Compensation, and the Ohio 73340
Industrial Commission. 73341

ATTORNEY GENERAL PASS-THROUGH FUNDS 73342

The foregoing appropriation item 055638, Attorney General 73343
Pass-Through Funds, shall be used to receive federal grant funds 73344
provided to the Attorney General by other state agencies, 73345
including, but not limited to, the Department of Youth Services 73346
and the Department of Public Safety. 73347

GENERAL HOLDING ACCOUNT 73348

The foregoing appropriation item 055631, General Holding 73349
Account, shall be used to distribute moneys under the terms of 73350
relevant court orders or other settlements received in a variety 73351
of cases involving the Office of the Attorney General. If it is 73352
determined that additional amounts are necessary for this purpose, 73353

the amounts are hereby appropriated. 73354

ANTITRUST SETTLEMENTS 73355

The foregoing appropriation item 055632, Antitrust 73356
Settlements, shall be used to distribute moneys under the terms of 73357
relevant court orders or other out of court settlements in 73358
antitrust cases or antitrust matters involving the Office of the 73359
Attorney General. If it is determined that additional amounts are 73360
necessary for this purpose, the amounts are hereby appropriated. 73361

CONSUMER FRAUDS 73362

The foregoing appropriation item 055630, Consumer Frauds, 73363
shall be used for distribution of moneys from court-ordered 73364
judgments against sellers in actions brought by the Office of 73365
Attorney General under sections 1334.08 and 4549.48 and division 73366
(B) of section 1345.07 of the Revised Code. These moneys shall be 73367
used to provide restitution to consumers victimized by the fraud 73368
that generated the court-ordered judgments. If it is determined 73369
that additional amounts are necessary for this purpose, the 73370
amounts are hereby appropriated. 73371

ORGANIZED CRIME COMMISSION DISTRIBUTIONS 73372

The foregoing appropriation item 055601, Organized Crime 73373
Commission Distributions, shall be used by the Organized Crime 73374
Investigations Commission, as provided by section 177.011 of the 73375
Revised Code, to reimburse political subdivisions for the expenses 73376
the political subdivisions incur when their law enforcement 73377
officers participate in an organized crime task force. If it is 73378
determined that additional amounts are necessary for this purpose, 73379
the amounts are hereby appropriated. 73380

COLLECTION OUTSIDE COUNSEL PAYMENTS 73381

The foregoing appropriation item 055650, Collection Outside 73382
Counsel Payments, shall be used for the purpose of paying 73383

contingency counsel fees for cases where debtors mistakenly paid 73384
the client agencies instead of the Attorney General's Revenue 73385
Recovery/Collections Enforcement Section. If it is determined that 73386
additional amounts are necessary for this purpose, the amounts are 73387
hereby appropriated. 73388

Sec. 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT 73389

General Revenue Fund 73390

| | | | | | | | |
|-----------|----------------------|---------------------|----|-----------|----|-----------------------------|-------|
| GRF | 042321 | Budget Development | \$ | 2,362,025 | \$ | 2,378,166 | 73391 |
| | | and Implementation | | | | <u>2,353,166</u> | |
| GRF | 042409 | Commission Closures | \$ | 50,000 | \$ | 50,000 | 73392 |
| GRF | 042416 | Office of Health | \$ | 306,285 | \$ | 0 <u>499,252</u> | 73393 |
| | | Transformation | | | | | |
| GRF | 042423 | Liquor Enterprise | \$ | 500,000 | \$ | 0 | 73394 |
| | | Transaction | | | | | |
| TOTAL GRF | General Revenue Fund | | \$ | 3,218,310 | \$ | 2,428,166 | 73395 |
| | | | | | | <u>2,902,418</u> | |

General Services Fund Group 73396

| | | | | | | | |
|-----------|-----------------------|----------------------|----|-----------------------|----|-----------------------|-------|
| 1050 | 042603 | State Accounting and | \$ | 21,917,230 | \$ | 22,006,331 | 73397 |
| | | Budgeting | | <u>21,158,069</u> | | <u>22,262,185</u> | |
| 5N40 | 042602 | OAKS Project | \$ | 1,358,000 | \$ | 1,309,500 | 73398 |
| | | Implementation | | | | <u>1,296,000</u> | |
| 5Z80 | 042608 | Office of Health | \$ | 57,752 | \$ | 0 | 73399 |
| | | Transformation | | | | | |
| | | Administration | | | | | |
| TOTAL GSF | General Services Fund | | \$ | 23,332,982 | \$ | 23,315,831 | 73400 |
| Group | | | | <u>22,573,821</u> | | <u>23,558,185</u> | |

Federal Special Revenue Fund Group 73401

| | | | | | | | |
|-----------|-------------------------|------------------|----|---------|----|--------------------|-------|
| 3CM0 | 042606 | Office of Health | \$ | 384,037 | \$ | 145,500 | 73402 |
| | | Transformation - | | | | <u>438,723</u> | |
| | | Federal | | | | | |
| TOTAL FED | Federal Special Revenue | | \$ | 384,037 | \$ | 145,500 | 73403 |

| | | | | | |
|------------------------------|-------------------|----|-----------------------|--|-------|
| Fund Group | | | | <u>438,723</u> | |
| Agency Fund Group | | | | | 73404 |
| 5EH0 042604 | Forgery Recovery | \$ | 50,000 | \$ 50,000 <u>49,000</u> | 73405 |
| TOTAL AGY | Agency Fund Group | \$ | 50,000 | \$ 50,000 <u>49,000</u> | 73406 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 26,985,329 | \$ 25,939,497 <u>26,226,168</u> | 73407 |
| | | | | <u>26,948,326</u> | |

COMMISSION CLOSURES 73408

The foregoing appropriation item 042409, Commission Closures, 73409
 may be used to pay obligations associated with the closure of the 73410
 Commission on Dispute Resolution and Conflict Management, the 73411
 School Employees Health Care Board, the Legal Rights Service, and 73412
 the Workers' Compensation Council. Notwithstanding any provision 73413
 of law to the contrary, this appropriation item may also be used 73414
 to pay final payroll expenses occurring after the closure of the 73415
 Commission on Dispute Resolution and Conflict Management, the 73416
 School Employees Health Care Board, the Legal Rights Service, and 73417
 the Workers' Compensation Council in the event that appropriations 73418
 or cash in the closing agency are insufficient to do so. 73419

The Director of Budget and Management may request Controlling 73420
 Board approval for funds to be transferred to appropriation item 73421
 042409, Commission Closures, from appropriation item 911614, CB 73422
 Emergency Purposes, for anticipated expenses associated with 73423
 agency closures. 73424

LIQUOR ENTERPRISE TRANSACTION 73425

The foregoing appropriation item 042423, Liquor Enterprise 73426
 Transaction, shall be used by the Director of Budget and 73427
 Management, without need for any other approval, to retain or 73428
 contract for the services of commercial appraisers, underwriters, 73429
 investment bankers, and financial advisers, as are necessary in 73430
 the Director's judgment to commence negotiation of the transfer 73431
 agreement referred to in sections 4313.01 and 4313.02 of the 73432

Revised Code, as enacted by ~~this act~~ Am. Sub. H.B. 153 of the 73433
129th General Assembly. Any amounts expended from appropriation 73434
item 042423 shall be reimbursed from the proceeds of the 73435
enterprise acquisition project transaction authorized in those 73436
sections. 73437

The Director of Budget and Management, in consultation with 73438
the Director of Commerce, may negotiate an initial agreement with 73439
JobsOhio, which shall be executed by the Directors of Budget and 73440
Management and Commerce upon its completion. 73441

AUDIT COSTS AND DUES 73442

All centralized audit costs associated with either Single 73443
Audit Schedules or financial statements prepared in conformance 73444
with generally accepted accounting principles for the state shall 73445
be paid from the foregoing appropriation item 042603, State 73446
Accounting and Budgeting. 73447

Costs associated with the audit of the Auditor of State and 73448
national association dues shall be paid from the foregoing 73449
appropriation item 042321, Budget Development and Implementation. 73450

SHARED SERVICES CENTER 73451

The Director of Budget and Management shall use the OAKS 73452
Project Implementation Fund (Fund 5N40) and the Accounting and 73453
Budgeting Fund (Fund 1050) to support a Shared Services Center 73454
within the Office of Budget and Management for the purpose of 73455
consolidating statewide business functions and common 73456
transactional processes. 73457

The Director of Budget and Management shall include the 73458
recovery of costs to operate the Shared Services Center in the 73459
accounting and budgeting services payroll rate and through a 73460
direct charge using intrastate transfer vouchers to agencies for 73461
services rendered. The Director of Budget and Management shall 73462
determine the cost recovery methodology. Such cost recovery 73463

revenues shall be deposited to the credit of Fund 1050. 73464

INTERNAL CONTROL AND AUDIT OVERSIGHT 73465

The Director of Budget and Management shall include the 73466
recovery of costs to operate the Internal Control and Audit 73467
Oversight Program in the accounting and budgeting services payroll 73468
rate and through a direct charge using intrastate transfer 73469
vouchers to agencies reviewed by the program. The Director of 73470
Budget and Management, with advice from the Internal Audit 73471
Advisory Council, shall determine the cost recovery methodology. 73472
Such cost recovery revenues shall be deposited to the credit of 73473
the Accounting and Budgeting Fund (Fund 1050). 73474

FORGERY RECOVERY 73475

The foregoing appropriation item 042604, Forgery Recovery, 73476
shall be used to reissue warrants that have been certified as 73477
forgeries by the rightful recipient as determined by the Bureau of 73478
Criminal Identification and Investigation and the Treasurer of 73479
State. Upon receipt of funds to cover the reissuance of the 73480
warrant, the Director of Budget and Management shall reissue a 73481
state warrant of the same amount. 73482

GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND 73483

On July 1 of each fiscal year, or as soon as possible 73484
thereafter, the Director of Budget and Management shall transfer 73485
an amount not to exceed \$1,100,000 in cash from the General 73486
Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40). 73487

Sec. 243.10. COM DEPARTMENT OF COMMERCE 73488

General Services Fund Group 73489

1630 800620 Division of \$ 6,200,000 \$ 6,200,000 73490
Administration

1630 800637 Information Technology \$ 5,999,892 \$ 6,011,977 73491

5430 800602 Unclaimed \$ 7,836,107 \$ 7,841,473 73492

| | | | | | |
|------------------------------------|--------|------------------------|---------------|---|-------|
| | | Funds-Operating | | | |
| 5430 | 800625 | Unclaimed Funds-Claims | \$ 69,700,000 | \$ 69,800,000 <u>68,000,000</u> | 73493 |
| 5F10 | 800635 | Small Government Fire | \$ 300,000 | \$ 300,000 | 73494 |
| | | Departments | | | |
| TOTAL GSF General Services Fund | | | | | 73495 |
| Group | | | \$ 90,035,999 | \$ 90,153,450 <u>88,353,450</u> | 73496 |
| Federal Special Revenue Fund Group | | | | | 73497 |
| 3480 | 800622 | Underground Storage | \$ 1,129,518 | \$ 1,129,518 | 73498 |
| | | Tanks | | | |
| 3480 | 800624 | Leaking Underground | \$ 1,556,211 | \$ 1,556,211 | 73499 |
| | | Storage Tanks | | | |
| TOTAL FED Federal Special Revenue | | | | | 73500 |
| Fund Group | | | \$ 2,685,729 | \$ 2,685,729 | 73501 |
| State Special Revenue Fund Group | | | | | 73502 |
| 4B20 | 800631 | Real Estate Appraisal | \$ 35,000 | \$ 35,000 | 73503 |
| | | Recovery | | | |
| 4H90 | 800608 | Cemeteries | \$ 268,067 | \$ 268,293 | 73504 |
| 4X20 | 800619 | Financial Institutions | \$ 2,186,271 | \$ 1,990,693 <u>1,970,786</u> | 73505 |
| 5440 | 800612 | Banks | \$ 7,242,364 | \$ 6,942,336 <u>6,872,913</u> | 73506 |
| 5450 | 800613 | Savings Institutions | \$ 2,257,220 | \$ 2,259,536 | 73507 |
| 5460 | 800610 | Fire Marshal | \$ 15,400,000 | \$ 15,501,562 <u>15,484,574</u> | 73508 |
| 5460 | 800639 | Fire Department Grants | \$ 1,698,802 | \$ 1,698,802 | 73509 |
| 5470 | 800603 | Real Estate | \$ 125,000 | \$ 125,000 <u>80,655</u> | 73510 |
| | | Education/Research | | | |
| 5480 | 800611 | Real Estate Recovery | \$ 25,000 | \$ 25,000 | 73511 |
| 5490 | 800614 | Real Estate | \$ 3,413,708 | \$ 3,332,308 | 73512 |
| 5500 | 800617 | Securities | \$ 4,312,434 | \$ 4,314,613 | 73513 |

| | | | | | |
|---------------------------------|--------------------------|-----------|-------------|-------------------|-----------------------------|
| | | | | <u>4,271,467</u> | |
| 5520 800604 | Credit Union | \$ | 3,450,390 | \$ | 3,450,390 73514 |
| | | | | <u>3,415,886</u> | |
| 5530 800607 | Consumer Finance | \$ | 3,613,016 | \$ | 3,516,861 73515 |
| | | | | <u>3,481,692</u> | |
| 5560 800615 | Industrial Compliance | \$ | 27,639,372 | \$ | 27,664,695 73516 |
| | | | | <u>27,388,048</u> | |
| 5FW0 800616 | Financial Literacy | \$ | 240,000 | \$ | 240,000 73517 |
| | Education | | | <u>200,000</u> | |
| 5GK0 800609 | Securities Investor | \$ | 1,135,000 | \$ | 485,000 73518 |
| | Education/Enforcement | | | <u>480,150</u> | |
| 5HV0 800641 | Cigarette Enforcement | \$ | 120,000 | \$ | 120,000 73519 |
| | | | | <u>118,800</u> | |
| <u>5LN0 800645</u> | <u>Liquor Operating</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>5,500,000</u> 73520 |
| | <u>Services</u> | | | | |
| <u>5LP0 800646</u> | <u>Liquor Regulatory</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>8,500,000</u> 73521 |
| | <u>Operating Expense</u> | | | | |
| 5X60 800623 | Video Service | \$ | 340,299 | \$ | 340,630 73522 |
| | | | | <u>337,224</u> | |
| 6530 800629 | UST Registration/Permit | \$ | 1,854,675 | \$ | 1,509,653 73523 |
| | Fee | | | <u>1,494,556</u> | |
| 6A40 800630 | Real Estate | \$ | 699,565 | \$ | 648,890 73524 |
| | Appraiser-Operating | | | | |
| TOTAL SSR State Special Revenue | | | | | 73525 |
| Fund Group | | \$ | 76,056,183 | \$ | 74,469,262 73526 |
| | | | | <u>87,864,580</u> | |
| Liquor Control Fund Group | | | | | 73527 |
| 7043 800601 | Merchandising | \$ | 472,209,274 | \$ | 0 73528 |
| 7043 800627 | Liquor Control | \$ | 13,398,274 | \$ | 10,110,479 73529 |
| | Operating | | | <u>1,509,374</u> | |
| 7043 800633 | Development Assistance | \$ | 51,973,200 | \$ | 0 73530 |
| | Debt Service | | | | |
| 7043 800636 | Revitalization Debt | \$ | 21,129,800 | \$ | 0 73531 |

Service

| | | | | | |
|------------------------------|----|-------------|----|------------------------|-------|
| TOTAL LCF Liquor Control | | | | 73532 | |
| Fund Group | \$ | 558,710,548 | \$ | 10,110,479 | 73533 |
| | | | | <u>1,509,374</u> | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 727,488,459 | \$ | 177,418,920 | 73534 |
| | | | | <u>180,413,133</u> | |

SMALL GOVERNMENT FIRE DEPARTMENTS 73535

Notwithstanding section 3737.17 of the Revised Code, the 73536
foregoing appropriation item 800635, Small Government Fire 73537
Departments, may be used to provide loans to private fire 73538
departments. 73539

UNCLAIMED FUNDS PAYMENTS 73540

The foregoing appropriation item 800625, Unclaimed 73541
Funds-Claims, shall be used to pay claims under section 169.08 of 73542
the Revised Code. If it is determined that additional amounts are 73543
necessary, the amounts are appropriated. 73544

UNCLAIMED FUNDS TRANSFERS 73545

Notwithstanding division (A) of section 169.05 of the Revised 73546
Code, during the FY 2012-FY 2013 biennium, the Director of Budget 73547
and Management shall request the Director of Commerce to transfer 73548
to the General Revenue Fund up to \$215,000,000 of unclaimed funds 73549
that have been reported by holders of unclaimed funds under 73550
section 169.05 of the Revised Code, irrespective of the allocation 73551
of the unclaimed funds under that section. The Director of 73552
Commerce shall transfer the funds at the times requested by the 73553
Director of Budget and Management. 73554

FIRE DEPARTMENT GRANTS 73555

Of the foregoing appropriation item 800639, Fire Department 73556
Grants, up to \$1,647,140 in each fiscal year shall be used to make 73557
annual grants to the following eligible recipients: volunteer fire 73558
departments, fire departments that serve one or more small 73559

municipalities or small townships, joint fire districts comprised 73560
of fire departments that primarily serve small municipalities or 73561
small townships, local units of government responsible for such 73562
fire departments, and local units of government responsible for 73563
the provision of fire protection services for small municipalities 73564
or small townships. For the purposes of these grants, a private 73565
fire company, as that phrase is defined in section 9.60 of the 73566
Revised Code, that is providing fire protection services under a 73567
contract to a political subdivision of the state, is an additional 73568
eligible recipient for a training grant. 73569

Eligible recipients that consist of small municipalities or 73570
small townships that all intend to contract with the same fire 73571
department or private fire company for fire protection services 73572
may jointly apply and be considered for a grant. If a joint 73573
applicant is awarded a grant, the State Fire Marshal shall, if 73574
feasible, proportionately award the grant and any equipment 73575
purchased with grant funds to each of the joint applicants based 73576
upon each applicant's contribution to and demonstrated need for 73577
fire protection services. 73578

If the grant awarded to joint applicants is an equipment 73579
grant and the equipment to be purchased cannot be readily 73580
distributed or possessed by multiple recipients, each of the joint 73581
applicants shall be awarded by the State Fire Marshal an ownership 73582
interest in the equipment so purchased in proportion to each 73583
applicant's contribution to and demonstrated need for fire 73584
protection services. The joint applicants shall then mutually 73585
agree on how the equipment is to be maintained, operated, stored, 73586
or disposed of. If, for any reason, the joint applicants cannot 73587
agree as to how jointly owned equipment is to be maintained, 73588
operated, stored, or disposed of or any of the joint applicants no 73589
longer maintain a contract with the same fire protection service 73590
provider as the other applicants, then the joint applicants shall, 73591

with the assistance of the State Fire Marshal, mutually agree as 73592
to how the jointly owned equipment is to be maintained, operated, 73593
stored, disposed of, or owned. If the joint applicants cannot 73594
agree how the grant equipment is to be maintained, operated, 73595
stored, disposed of, or owned, the State Fire Marshal may, in its 73596
discretion, require all of the equipment acquired by the joint 73597
applicants with grant funds to be returned to the State Fire 73598
Marshal. The State Fire Marshal may then award the returned 73599
equipment to any eligible recipients. 73600

The grants shall be used by recipients to purchase 73601
firefighting or rescue equipment or gear or similar items, to 73602
provide full or partial reimbursement for the documented costs of 73603
firefighter training, or, at the discretion of the State Fire 73604
Marshal, to cover fire department costs for providing fire 73605
protection services in that grant recipient's jurisdiction. 73606

Grant awards for firefighting or rescue equipment or gear or 73607
for fire department costs of providing fire protection services 73608
shall be up to \$15,000 per fiscal year, or up to \$25,000 per 73609
fiscal year if an eligible entity serves a jurisdiction in which 73610
the Governor declared a natural disaster during the preceding or 73611
current fiscal year in which the grant was awarded. In addition to 73612
any grant funds awarded for rescue equipment or gear, or for fire 73613
department costs associated with the provision of fire protection 73614
services, an eligible entity may receive a grant for up to \$15,000 73615
per fiscal year for full or partial reimbursement of the 73616
documented costs of firefighter training. For each fiscal year, 73617
the State Fire Marshal shall determine the total amounts to be 73618
allocated for each eligible purpose. 73619

The grant program shall be administered by the State Fire 73620
Marshal in accordance with rules the State Fire Marshal adopts as 73621
part of the state fire code adopted pursuant to section 3737.82 of 73622
the Revised Code that are necessary for the administration and 73623

operation of the grant program. The rules may further define the 73624
entities eligible to receive grants and establish criteria for the 73625
awarding and expenditure of grant funds, including methods the 73626
State Fire Marshal may use to verify the proper use of grant funds 73627
or to obtain reimbursement for or the return of equipment for 73628
improperly used grant funds. Any amounts in appropriation item 73629
800639, Fire Department Grants, in excess of the amount allocated 73630
for these grants may be used for the administration of the grant 73631
program. 73632

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR 73633
EDUCATION AND ENFORCEMENT EXPENSE FUND 73634

The Director of Budget and Management, upon the request of 73635
the Director of Commerce, shall transfer up to \$485,000 in cash in 73636
each fiscal year from the Division of Securities Fund (Fund 5500) 73637
to the Division of Securities Investor Education and Enforcement 73638
Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised 73639
Code. 73640

CASH TRANSFER TO VIDEO SERVICE AUTHORIZATION FUND 73641

The Director of Budget and Management, upon the request of 73642
the Director of Commerce, shall transfer up to \$340,000 in cash in 73643
each fiscal year from the Division of Administration Fund (Fund 73644
1630) to the Video Service Authorization Fund (Fund 5X60). 73645

INCREASED APPROPRIATION - MERCHANDISING 73646

The foregoing appropriation item 800601, Merchandising, shall 73647
be used under section 4301.12 of the Revised Code. If it is 73648
determined that additional expenditures are necessary, the amounts 73649
are hereby appropriated. 73650

DEVELOPMENT ASSISTANCE DEBT SERVICE 73651

The foregoing appropriation item 800633, Development 73652
Assistance Debt Service, shall be used to pay debt service and 73653

related financing costs at the times they are required to be made 73654
during the period from July 1, 2011, to June 30, 2012, for bond 73655
service charges on obligations issued under Chapter 166. of the 73656
Revised Code. If it is determined that additional appropriations 73657
are necessary for this purpose, such amounts are appropriated, 73658
subject to the limitations set forth in section 166.11 of the 73659
Revised Code. An appropriation for this purpose is not required, 73660
but is made in this form and in ~~this act~~ Am. Sub. H.B. 153 of the 73661
129th General Assembly for record purposes only. 73662

REVITALIZATION DEBT SERVICE 73663

The foregoing appropriation item 800636, Revitalization Debt 73664
Service, shall be used to pay debt service and related financing 73665
costs at the times they are required to be made pursuant to 73666
sections 151.01 and 151.40 of the Revised Code during the period 73667
from July 1, 2011, to June 30, 2012. If it is determined that 73668
additional appropriations are necessary for this purpose, such 73669
amounts are hereby appropriated. The General Assembly acknowledges 73670
the priority of the pledge of a portion of receipts from that 73671
source to obligations issued and to be issued under Chapter 166. 73672
of the Revised Code. 73673

LIQUOR CONTROL FUND TRANSFER 73674

On January 1, 2012, or as soon as possible thereafter, the 73675
Director of Budget and Management may transfer up to \$10,600,000 73676
in cash from the General Revenue Fund to the Liquor Control Fund 73677
(Fund 7043) for the liquor permitting and compliance functions of 73678
the Division of Liquor Control in the Department of Commerce and 73679
for the operations of the Liquor Control Commission and the 73680
Department of Public Safety pursuant to Chapter 4301. of the 73681
Revised Code. 73682

On July 1, 2012, or as soon as possible thereafter, the 73683
Director of Budget and Management may transfer up to \$21,800,000 73684

in cash from the General Revenue Fund to the Liquor Control Fund 73685
(Fund 7043) for the liquor permitting and compliance functions of 73686
the Division of Liquor Control in the Department of Commerce and 73687
for the operations of the Liquor Control Commission and the 73688
Department of Public Safety pursuant to Chapter 4301. of the 73689
Revised Code. 73690

On July 1, 2012, or as soon as possible thereafter, the 73691
Director of Budget and Management shall transfer \$500,000 in cash 73692
from the Liquor Control Fund (Fund 7043) to the State Liquor 73693
Regulatory Fund (Fund 5LP0) created in section 4301.30 of the 73694
Revised Code. 73695

ADMINISTRATIVE ASSESSMENTS 73696

Notwithstanding any other provision of law to the contrary, 73697
the Division of Administration Fund (Fund 1630) is entitled to 73698
receive assessments from all operating funds of the Department in 73699
accordance with procedures prescribed by the Director of Commerce 73700
and approved by the Director of Budget and Management. 73701

Sec. 261.10.40. TRAVEL AND TOURISM 73702

The foregoing appropriation item 195407, Travel and Tourism, 73703
shall be used for marketing the state of Ohio as a tourism 73704
destination and to support administrative expenses and contracts 73705
necessary to market Ohio. 73706

~~STRATEGIC BUSINESS INVESTMENT DIVISION AND REGIONAL OFFICES~~ 73707
~~DEVELOPMENT SERVICES~~ 73708

The foregoing appropriation item 195415, ~~Strategic Business~~ 73709
~~Investment Division and Regional Offices Development Services,~~ 73710
shall be used for the operating expenses of the ~~Strategic Business~~ 73711
~~Investment Services~~ Division and the regional economic development 73712
offices and for grants for cooperative economic development 73713
ventures. 73714

Sec. 261.10.70. CLEAN OHIO IMPLEMENTATION 73715

The foregoing appropriation item 195426, Clean Ohio 73716
Implementation, shall be used to fund the costs of administering 73717
the Clean Ohio Revitalization program and other urban 73718
revitalization programs that may be implemented by the ~~Department~~ 73719
of Development Services Agency. 73720

CDBG OPERATING MATCH 73721

The foregoing appropriation item 195497, CDBG Operating 73722
Match, shall be used as matching funds for grants from the United 73723
States Department of Housing and Urban Development pursuant to the 73724
Housing and Community Development Act of 1974 and regulations and 73725
policy guidelines for the programs pursuant thereto. 73726

TECHNOLOGY PROGRAMS AND GRANTS 73727

The foregoing appropriation item 195532, Technology Programs 73728
and Grants, shall be used for the same purposes as funding 73729
previously appropriated for appropriation items 195401, Thomas 73730
Edison Program, and 195422, Technology Action. Of the foregoing 73731
appropriation item 195532, Technology Programs and Grants, up to 73732
\$547,341 in fiscal year 2013 shall be used for operating expenses 73733
incurred in administering the Ohio Third Frontier pursuant to 73734
sections 184.10 to 184.20 of the Revised Code; and up to 73735
\$13,000,000 in fiscal year 2013 shall be used for the Thomas 73736
Edison Program pursuant to sections 122.28 to 122.38 of the 73737
Revised Code, of which not more than ten per cent shall be used 73738
for operating expenses incurred in administering the program. 73739

BUSINESS ASSISTANCE 73740

The foregoing appropriation item 195533, Business Assistance, 73741
shall be used as matching funds for grants from the United States 73742
Small Business Administration and other federal agencies, pursuant 73743
to Public Law No. 96-302 as amended by Public Law No. 98-395, and 73744

regulations and policy guidelines for the programs pursuant 73745
thereto. This appropriation item also may be used to provide 73746
grants to local organizations to support economic development 73747
activities that promote minority business development, small 73748
business development, entrepreneurship, and exports of Ohio's 73749
goods and services. 73750

APPALACHIA ASSISTANCE 73751

The foregoing appropriation item 195535, Appalachia 73752
Assistance, may be used for the administrative costs of planning 73753
and liaison activities for the Governor's Office of Appalachia, to 73754
provide financial assistance to projects in Ohio's Appalachian 73755
counties, to pay dues for the Appalachian Regional Commission, and 73756
to match federal funds from the Appalachian Regional Commission. 73757

Of the foregoing appropriation item 195535, Appalachia 73758
Assistance, up to \$440,000 in fiscal year 2013 shall be used to 73759
support four local development districts. Of that amount, up to 73760
\$135,000 shall be allocated to the Ohio Valley Regional 73761
Development Commission, up to \$135,000 shall be allocated to the 73762
Ohio Mid-Eastern Government Association, up to \$135,000 shall be 73763
allocated to the Buckeye Hills-Hocking Valley Regional Development 73764
District, and up to \$35,000 shall be allocated to the Eastgate 73765
Regional Council of Governments. Local development districts 73766
receiving funding under this section shall use the funds for the 73767
implementation and administration of programs and duties under 73768
section 107.21 of the Revised Code. 73769

Sec. 261.20.10. ECONOMIC DEVELOPMENT PROJECTS GARDENING PILOT 73770
PROGRAM 73771

~~The foregoing appropriation item 195528, Economic Development~~ 73772
~~Projects, may be used for the purposes of Chapter 122. of the~~ 73773
~~Revised Code. This appropriation item is made in anticipation of~~ 73774
~~the evaluation of all powers, functions, and duties of the~~ 73775

~~Department of Development by the Director of Development, as 73776
prescribed in Section 187.05 of the Revised Code. It is the intent 73777
of the General Assembly that the appropriations in the 73778
appropriation item be reallocated upon completion of the 73779
evaluation. 73780~~

The foregoing appropriation item 195530, Economic Gardening 73781
Pilot Program, shall be used for the Economic Gardening Technical 73782
Assistance Pilot Program. 73783

Sec. 261.20.40. SUPPORTIVE DEVELOPMENT SERVICES OPERATIONS 73784

The Director of Development Services may assess ~~divisions 73785
offices of the ~~department~~ agency for the cost of central service 73786
operations. An assessment shall contain the characteristics of 73787
administrative ease and uniform application. A division's payments 73788
shall be credited to the Supportive Services Fund (Fund 1350) 73789
using an intrastate transfer voucher. 73790~~

~~ECONOMIC DEVELOPMENT CONTINGENCY 73791~~

~~The foregoing appropriation item 195677, Economic Development 73792
Contingency, may be used to award funds directly to either (1) 73793
business entities considering Ohio for expansion or new site 73794
location opportunities or (2) political subdivisions to assist 73795
with necessary costs involved in attracting a business entity. In 73796
addition, the Director of Development may award funds for 73797
alternative purposes when appropriate to satisfy an economic 73798
development opportunity or need deemed extraordinary in nature by 73799
the Director. 73800~~

LEGACY PROJECTS 73801

The foregoing appropriation item 195633, Legacy Projects, 73802
shall be used to support existing grant commitments to companies 73803
incurred prior to fiscal year 2013. A portion of the appropriation 73804
item may also be used to support administrative expenses and other 73805

costs associated with these projects. 73806

~~DIRECT COST RECOVERY~~ DEVELOPMENT SERVICES REIMBURSABLE 73807
EXPENDITURES 73808

The foregoing appropriation item 195636, ~~Direct Cost Recovery~~ 73809
Development Services Reimbursable Expenditures, shall be used for 73810
reimbursable costs incurred by the agency. Revenues to the General 73811
Reimbursement Fund (Fund 6850) shall consist of moneys charged for 73812
administrative costs that are not central service costs. 73813

Sec. 261.20.50. HEAP WEATHERIZATION 73814

Up to fifteen per cent of the federal funds deposited to the 73815
credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) 73816
may be expended from appropriation item 195614, HEAP 73817
Weatherization, to provide home weatherization services in the 73818
state as determined by the Director of Development Services. Any 73819
transfers or increases in appropriation for the foregoing 73820
appropriation items 195614, HEAP Weatherization, or 195611, Home 73821
Energy Assistance Block Grant, shall be subject to approval by the 73822
Controlling Board. 73823

Sec. 261.20.60. BUSINESS ASSISTANCE PROGRAMS 73824

The foregoing appropriation item 195649, Business Assistance 73825
Programs, shall be used for administrative expenses associated 73826
with the operation of tax credit programs, loan servicing, the 73827
Ohio Film Office, and the Office of Strategic Business 73828
Investments, and for payments to the JobsOhio corporation 73829
established in Chapter 187. of the Revised Code for services 73830
provided for the administration of the 166 Direct Loan Program, 73831
Ohio Enterprise Bond Fund, Research and Development Loan Program, 73832
and Innovation Ohio Loan Program. 73833

STATE SPECIAL PROJECTS 73834

The State Special Projects Fund (Fund 4F20), may be used for 73835
the deposit of private-sector funds from utility companies and for 73836
the deposit of other miscellaneous state funds. State moneys so 73837
deposited ~~shall~~ may also be used to match federal housing grants 73838
for the homeless ~~and to market economic development opportunities~~ 73839
~~in the state~~. Private-sector moneys shall be deposited for use in 73840
appropriation item 195699, Utility ~~Provided Funds~~ Community 73841
Assistance, and shall be used to (1) pay the expenses of verifying 73842
the income-eligibility of HEAP applicants, (2) leverage additional 73843
federal funds, (3) fund special projects to assist ~~homeless~~ 73844
~~individuals~~ income-eligible veterans and families with services 73845
and energy assistance programs, (4) fund special projects to 73846
assist with the energy efficiency of households eligible to 73847
participate in the Percentage of Income Payment Plan, and (5) 73848
assist with training programs for agencies that administer 73849
low-income customer assistance programs. 73850

Sec. 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN 73851

All repayments from the Minority Development Financing 73852
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 73853
Program shall be deposited in the State Treasury to the credit of 73854
the Minority Business Enterprise Loan Fund (Fund 4W10). Operating 73855
costs of administering the Minority Business Enterprise Loan Fund 73856
may be paid from the Minority Business Enterprise Loan Fund (Fund 73857
4W10). 73858

MINORITY BUSINESS BONDING FUND 73859

Notwithstanding Chapters 122., 169., and 175. of the Revised 73860
Code, the Director of Development Services may, upon the 73861
recommendation of the Minority Development Financing Advisory 73862
Board, pledge up to \$10,000,000 in the fiscal year 2012-fiscal 73863
year 2013 biennium of unclaimed funds administered by the Director 73864
of Commerce and allocated to the Minority Business Bonding Program 73865

under section 169.05 of the Revised Code. The transfer of any cash 73866
by the Director of Budget and Management from the ~~Department of~~ 73867
~~Commerce's~~ Unclaimed Funds Fund (Fund 5430) used by the Department 73868
of Commerce to the ~~Department of Development's~~ Minority Business 73869
Bonding Fund (Fund 4490) used by the Development Services Agency 73870
shall occur, if requested by the Director of Development Services, 73871
only if such funds are needed for payment of losses arising from 73872
the Minority Business Bonding Program, and only after proceeds of 73873
the initial transfer of \$2,700,000 by the Controlling Board to the 73874
Minority Business Bonding Program has been used for that purpose. 73875
Moneys transferred by the Director of Budget and Management from 73876
the Department of Commerce for this purpose may be moneys in 73877
custodial funds held by the Treasurer of State. If expenditures 73878
are required for payment of losses arising from the Minority 73879
Business Bonding Program, such expenditures shall be made from 73880
appropriation item 195623, Minority Business Bonding Contingency 73881
in the Minority Business Bonding Fund, and such amounts are hereby 73882
appropriated. 73883

Sec. 261.20.90. ~~OHIO~~ INCUMBENT WORKFORCE TRAINING VOUCHERS 73884

(A) On July 1, 2011, or as soon as possible thereafter, the 73885
Director of Budget and Management shall transfer up to \$20,000,000 73886
cash from the Economic Development Programs Fund (Fund 5JC0) used 73887
by the Board of Regents to the Ohio Incumbent Workforce Job 73888
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 73889
Services Agency. 73890

On July 1, 2012, or as soon as possible thereafter, the 73891
Director of Budget and Management shall transfer up to \$30,000,000 73892
cash from the Economic Development Programs Fund (Fund 5JC0) used 73893
by the Board of Regents to the Ohio Incumbent Workforce Job 73894
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 73895
Services Agency. 73896

(B) Of the foregoing appropriation item 195526, ~~Ohio~~ 73897
Incumbent Workforce Job Training Vouchers, up to \$20,000,000 in 73898
fiscal year 2012 and up to \$30,000,000 in fiscal year 2013 shall 73899
be used to support the Ohio Incumbent Workforce Training Voucher 73900
Program. The Director of Development Services and the Chief 73901
Investment Officer of JobsOhio may enter into an agreement to 73902
operate the program pursuant to the contract between the 73903
~~Department of~~ Development Services Agency and JobsOhio under 73904
section 187.04 of the Revised Code. The agreement may include a 73905
provision for granting, loaning, or transferring funds from 73906
appropriation item 195526, ~~Ohio~~ Incumbent Workforce ~~Job~~ Training 73907
Vouchers, to JobsOhio to provide training for incumbent workers. 73908

(C) Regardless of any agreement between the Director and the 73909
Chief Investment Officer under division (B) of this section, the 73910
Ohio Incumbent Workforce Training Voucher Program shall conform to 73911
guidelines for the operation of the program, including, but not 73912
limited to, the following: 73913

(1) A requirement that a training voucher under the program 73914
shall not exceed \$6,000 per worker per year; 73915

(2) A provision for an employer of an eligible employee to 73916
apply for a voucher on behalf of the eligible employee; 73917

(3) A provision for an eligible employee to apply directly 73918
for a training voucher with the pre-approval of the employee's 73919
employer; and 73920

(4) A requirement that an employee participating in the 73921
program, or the employee's employer, shall pay for not less than 73922
thirty-three per cent of the training costs under the program. 73923

DEFENSE DEVELOPMENT ASSISTANCE 73924

On July 1 of each fiscal year, or as soon as possible 73925
thereafter, the Director of Budget and Management shall transfer 73926
\$5,000,000 in cash from the Economic Development Projects Fund 73927

(Fund 5JC0) used by the Board of Regents to the Ohio Incumbent 73928
Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ 73929
Development Services Agency. The transferred funds are hereby 73930
appropriated in appropriation item 195622, Defense Development 73931
Assistance. 73932

The foregoing appropriation item 195622, Defense Development 73933
Assistance, shall be used for economic development programs and 73934
the creation of new jobs to leverage and support mission gains at 73935
Department of Defense facilities in Ohio by working with future 73936
base realignment and closure activities and ongoing Department of 73937
Defense efficiency initiatives, assisting efforts to secure 73938
Department of Defense support contracts for Ohio companies, 73939
assessing and supporting regional job training and workforce 73940
development needs generated by the Department of Defense and the 73941
Ohio aerospace industry, and for expanding job training and 73942
economic development programs in human performance related 73943
initiatives. These funds shall be matched by private industry 73944
partners or the Department of Defense in an aggregate amount of 73945
\$6,000,000 over the FY 2012-FY 2013 biennium. 73946

WORKFORCE DEVELOPMENT PROGRAMS 73947

The foregoing appropriation item 195655, Workforce 73948
Development Programs, may be used for the Ohio Workforce Guarantee 73949
Program to promote training through grants to businesses and, in 73950
the case of a business consortium, to the consortium for training 73951
and education providers for the reimbursement of eligible training 73952
expenses. Not more than ten per cent of appropriation item 195655, 73953
Workforce Development Programs, shall be used for administrative 73954
expenses related to the Ohio Workforce Guarantee Program. 73955

Sec. 261.30.10. ADVANCED ENERGY ~~FUND~~ LOAN PROGRAMS 73956

The foregoing appropriation item 195660, Advanced Energy Loan 73957
Programs, shall be used to provide financial assistance to 73958

customers for eligible advanced energy projects for residential, 73959
commercial, and industrial business, local government, educational 73960
institution, nonprofit, and agriculture customers, and to pay for 73961
the program's administrative costs as provided in sections 4928.61 73962
to 4928.63 of the Revised Code and rules adopted by the Director 73963
of Development Services. 73964

On July 1 of each fiscal year, or as soon as possible 73965
thereafter, the Director of Budget and Management shall transfer 73966
\$750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the 73967
Alternative Fuel Transportation Grant Fund (Fund 5CG0). 73968

VOLUME CAP ADMINISTRATION 73969

The foregoing appropriation item 195654, Volume Cap 73970
Administration, shall be used for expenses related to the 73971
administration of the Volume Cap Program. Revenues received by the 73972
Volume Cap Administration Fund (Fund 6170) shall consist of 73973
application fees, forfeited deposits, and interest earned from the 73974
custodial account held by the Treasurer of State. 73975

Sec. 261.30.20. INNOVATION OHIO LOAN FUND 73976

The foregoing appropriation item 195664, Innovation Ohio, 73977
shall be used to provide for innovation Ohio purposes, including 73978
loan guarantees and loans under Chapter 166. and particularly 73979
sections 166.12 to 166.16 of the Revised Code. 73980

RESEARCH AND DEVELOPMENT 73981

The foregoing appropriation item 195665, Research and 73982
Development, shall be used to provide for research and development 73983
purposes, including loans, under Chapter 166. and particularly 73984
sections 166.17 to 166.21 of the Revised Code. 73985

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE 73986

Appropriation item 195698, Logistics and Distribution 73987
Infrastructure, shall be used for eligible logistics and 73988

distribution infrastructure projects as defined in section 166.01 73989
of the Revised Code. Any unexpended and unencumbered portion of 73990
the appropriation item at the end of fiscal year 2011 is hereby 73991
reappropriated for the same purpose in fiscal year 2012, and any 73992
unexpended and unencumbered portion of the appropriation item at 73993
the end of fiscal year 2012 is hereby reappropriated for the same 73994
purpose in fiscal year 2013. 73995

After all encumbrances have been paid, the Director of Budget 73996
and Management shall transfer the remaining cash balance in the 73997
Logistics and Distribution Infrastructure Fund (Fund 7008) to the 73998
Facilities Establishment Fund (Fund 7037). 73999

FACILITIES ESTABLISHMENT ~~FUND~~ 74000

The foregoing appropriation item 195615, Facilities 74001
Establishment (Fund 7037), shall be used for the purposes of the 74002
Facilities Establishment Fund under Chapter 166. of the Revised 74003
Code. 74004

Notwithstanding Chapter 166. of the Revised Code, an amount 74005
not to exceed \$1,000,000 in cash in fiscal year 2012 may be 74006
transferred from the Facilities Establishment Fund (Fund 7037) to 74007
the ~~Economic Development Financing Operating~~ Business Assistance 74008
Fund (Fund 4510). The transfer is subject to Controlling Board 74009
approval under division (B) of section 166.03 of the Revised Code. 74010

Notwithstanding Chapter 166. of the Revised Code, the 74011
Director of Budget and Management may transfer an amount not to 74012
exceed \$2,500,000 in cash in each fiscal year from the Facilities 74013
Establishment Fund (Fund 7037) to the Minority Business Enterprise 74014
Loan Fund (Fund 4W10). 74015

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 74016
Director of Budget and Management shall transfer the unexpended 74017
and unencumbered cash balance in the Urban Development Loans Fund 74018
(Fund 5D20) to the Facilities Establishment Fund (Fund 7037). 74019

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 74020
Director of Budget and Management shall transfer the unexpended 74021
and unencumbered cash balance in the Rural Industrial Park Loan 74022
Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037). 74023

CAPITAL ACCESS LOAN PROGRAM 74024

The foregoing appropriation item 195628, Capital Access Loan 74025
Program, shall be used for operating, program, and administrative 74026
expenses of the program. Funds of the Capital Access Loan Program 74027
shall be used to assist participating financial institutions in 74028
making program loans to eligible businesses that face barriers in 74029
accessing working capital and obtaining fixed-asset financing. 74030

Sec. 261.30.30. CLEAN OHIO OPERATING EXPENSES 74031

The foregoing appropriation item 195663, Clean Ohio ~~Operating~~ 74032
Program, shall be used by the ~~Department of~~ Development Services 74033
Agency in administering Clean Ohio Revitalization Fund (Fund 7003) 74034
projects pursuant to sections 122.65 to 122.658 of the Revised 74035
Code. 74036

Sec. 261.30.40. THIRD FRONTIER OPERATING 74037

The foregoing appropriation items 195686, Third Frontier 74038
Operating, and 195620, Third Frontier Operating - Tax, shall be 74039
used for operating expenses incurred by the ~~Department of~~ 74040
Development Services Agency in administering projects pursuant to 74041
sections 184.10 to 184.20 of the Revised Code. Operating expenses 74042
paid from item 195686 shall be limited to the administration of 74043
projects funded from the Third Frontier Research & Development 74044
Fund (Fund 7011) and operating expenses paid from item 195620 74045
shall be limited to the administration of projects funded from the 74046
Third Frontier Research & Development Taxable Bond Project Fund 74047
(Fund 7014). 74048

Sec. 261.30.60. JOB READY SITE ~~OPERATING~~ PROGRAM 74049

The foregoing appropriation item 195688, Job Ready Site 74050
~~Operating Program~~, shall be used for operating expenses incurred 74051
by the ~~Department of~~ Development Services Agency in administering 74052
Job Ready Site Development Fund (Fund 7012) projects pursuant to 74053
sections 122.085 to 122.0820 of the Revised Code. Operating 74054
expenses include, but are not limited to, certain qualified 74055
expenses of the District Public Works Integrating Committees, as 74056
applicable, engineering review of submitted applications by the 74057
State Architect or a third-party engineering firm, audit and 74058
accountability activities, and costs associated with formal 74059
certifications verifying that site infrastructure is in place and 74060
is functional. 74061

Sec. 261.30.70. OHIO COAL DEVELOPMENT OFFICE 74062

On July 1, 2011, or as soon as possible thereafter, the 74063
Director of Budget and Management shall transfer any unexpended 74064
and unencumbered portion of appropriation item 898604, Coal 74065
Research and Development Fund, used by the Ohio Air Quality 74066
Development Authority, to a new capital appropriation item in the 74067
~~Department of~~ Development Services Agency, to be determined by the 74068
Director. The Director also shall cancel all outstanding 74069
encumbrances against appropriation item 898604, Coal Research and 74070
Development Fund, and reestablish them against the foregoing new 74071
capital appropriation item. The amounts of the transfer and the 74072
reestablished encumbrances, plus \$2,283,264, are hereby 74073
appropriated for fiscal year 2012 in the foregoing new 74074
appropriation item and shall be used to provide funding for coal 74075
research and development purposes. 74076

Sec. 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND 74077
COMMERCIALIZATION SUPPORT 74078

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. 74110

(B) ASSORTED TRANSFERS FOR RESTRUCTURING 74111

On July 1, 2012, or as soon as possible thereafter, the 74112
Director of Budget and Management shall transfer the cash balance 74113
in the Water and Sewer Fund (Fund 4440) to the General 74114
Reimbursement Fund (Fund 6850). 74115

On July 1, 2012, or as soon as possible thereafter, the 74116
Director of Budget and Management shall transfer the cash balance 74117
in the Water and Sewer Administration Fund (Fund 6110) to the 74118
General Reimbursement Fund (Fund 6850). 74119

On July 1, 2012, or as soon as possible thereafter, the 74120
Director of Budget and Management shall transfer the cash balance 74121
in the Tax Incentive Programs Operating Fund (Fund 4S00) to the 74122
Business Assistance Fund (Fund 4510). 74123

On July 1, 2012, or as soon as possible thereafter, the 74124
Director of Budget and Management shall transfer the cash balance 74125
in the Brownfield Stormwater Loan Fund (Fund 5KD0) to the New 74126
Market Tax Credit Program Fund (Fund 5JR0). 74127

Sec. 261.40.10. WORKFORCE DEVELOPMENT 74128

The Director of Development Services and the Director of Job 74129
and Family Services may enter into one or more interagency 74130
agreements between the two departments and take other actions the 74131
directors consider appropriate to further integrate workforce 74132
development into a larger economic development strategy, to 74133
implement the recommendations of the Workforce Policy Board, and 74134
to complete activities related to the transition of the 74135
administration of employment programs identified by the board. 74136
Subject to the approval of the Director of Budget and Management, 74137
the ~~Department of~~ Development Services Agency and the Department 74138
of Job and Family Services may expend moneys to support the 74139

recommendations of the Workforce Policy Board in the area of 74140
integration of employment functions as described in this paragraph 74141
and to complete implementation and transition activities from the 74142
appropriations to those departments. 74143

Sec. 263.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES 74144

General Revenue Fund 74145

GRF 320321 Central \$ 4,422,794 \$ 4,422,794 74146

Administration

GRF 320412 Protective Services \$ 2,174,826 \$ 1,957,343 74147

GRF 320415 Lease-Rental Payments \$ 18,394,250 \$ ~~19,907,900~~ 74148

17,907,900

GRF 322407 Medicaid State Match \$ 218,034,162 \$ 214,902,506 74149

GRF 322420 Screening and Early \$ 0 \$ 300,000 74150

Intervention

GRF 322451 Family Support \$ 5,932,758 \$ 5,932,758 74151

Services

GRF 322501 County Boards \$ 40,906,365 \$ 44,449,280 74152

Subsidies

GRF 322503 Tax Equity \$ 14,000,000 \$ 14,000,000 74153

TOTAL GRF General Revenue Fund \$ 303,865,155 \$ ~~305,572,581~~ 74154

303,872,581

General Services Fund Group 74155

1520 323609 Developmental Center \$ 3,414,317 \$ 3,414,317 74156

and Residential

Operating Services

TOTAL GSF General Services Fund \$ 3,414,317 \$ 3,414,317 74157

Group

Federal Special Revenue Fund Group 74158

3A50 320613 DD Council \$ 3,341,572 \$ 3,341,572 74159

3250 322612 Community Social \$ 11,017,754 \$ 10,604,896 74160

Service Programs

| | | | | | | | |
|-----------------------|-------------------------|---|----|---------------|----|--|-------|
| 3DZ0 | 322648 | Enhanced Medicaid - Federal | \$ | 10,000,000 | \$ | 0 | 74161 |
| 3G60 | 322639 | Medicaid Waiver - Federal | \$ | 866,566,007 | \$ | 985,566,007 | 74162 |
| 3M70 | 322650 | CAFS Medicaid | \$ | 29,349,502 | \$ | 29,349,502 <u>3,000,000</u> | 74163 |
| 3A40 | 323605 | Developmental Center and Residential Facility Services and Support | \$ | 180,266,029 | \$ | 179,384,881 <u>174,000,000</u> | 74164 |
| TOTAL FED | Federal Special Revenue | | \$ | 1,100,540,864 | \$ | 1,208,246,858 <u>1,176,512,475</u> | 74165 |
| Fund Group | | | | | | | |
| State Special Revenue | Fund Group | | | | | | 74166 |
| 5GE0 | 320606 | Operating and Services | \$ | 7,406,609 | \$ | 7,407,297 | 74167 |
| 2210 | 322620 | Supplement Service Trust | \$ | 150,000 | \$ | 150,000 | 74168 |
| 4K80 | 322604 | Medicaid Waiver - State Match | \$ | 12,000,000 | \$ | 12,000,000 | 74169 |
| 5CT0 | 322632 | Intensive Behavioral Needs | \$ | 1,000,000 | \$ | 1,000,000 | 74170 |
| 5DJ0 | 322625 | Targeted Case Management Match | \$ | 21,000,000 | \$ | 24,000,000 | 74171 |
| 5DJ0 | 322626 | Targeted Case Management Services | \$ | 57,307,357 | \$ | 66,000,000 | 74172 |
| 5DK0 | 322629 | Capital Replacement Facilities | \$ | 750,000 | \$ | 750,000 | 74173 |
| 5EV0 | 322627 | Program Fees | \$ | 685,000 | \$ | 685,000 | 74174 |
| 5H00 | 322619 | Medicaid Repayment | \$ | 160,000 | \$ | 160,000 | 74175 |
| 5JX0 | 322651 | Interagency Workgroup - Autism | \$ | 45,000 | | 45,000 | 74176 |
| 5Z10 | 322624 | County Board Waiver Match | \$ | 235,000,000 | \$ | 290,000,000 | 74177 |

| | | | | | | | |
|---------------------------------|--------|-------------------------------|----|---------------|----|--|-------|
| 4890 | 323632 | Developmental Center | \$ | 16,497,170 | \$ | 16,497,169 | 74178 |
| | | Direct Care Support | | | | | |
| 5S20 | 590622 | Medicaid | \$ | 20,875,567 | \$ | 21,727,540 | 74179 |
| | | Administration & Oversight | | | | | |
| TOTAL SSR State Special Revenue | | | \$ | 372,876,703 | \$ | 440,422,006 | 74180 |
| Fund Group | | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 1,780,697,039 | \$ | 1,957,655,762 <u>1,924,221,379</u> | 74181 |

Sec. 263.10.30. FAMILY SCREENING AND EARLY INTERVENTION 74183

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. 74184
74185
74186

FAMILY SUPPORT SERVICES SUBSIDY 74187

(A) The foregoing appropriation item 322451, Family Support Services, may be used as follows in fiscal year 2012 and fiscal year 2013: 74188
74189
74190

(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. 74191
74192
74193
74194
74195
74196
74197
74198

(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. 74199
74200
74201
74202
74203
74204

(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. 74235

Sec. 263.20.70. RATE INCREASE FOR WAIVER PROVIDERS SERVING 74236
FORMER RESIDENTS OF DEVELOPMENTAL CENTERS OR RESIDENTS OF 74237
CONVERTED FACILITIES 74238

Subject (A) As used in this section, "converted facility" 74239
means an intermediate care facility for the mentally retarded as 74240
defined in section 5111.20 of the Revised Code, or former 74241
intermediate care facility for the mentally retarded, that 74242
converted some or all of its beds to providing home and 74243
community-based services under the Individual Options Waiver 74244
pursuant to section 5111.874 of the Revised Code. 74245

(B) Subject to approval by the Centers for Medicare and 74246
Medicaid Services, the Department of Job and Family Services shall 74247
increase the rate paid to a provider under the Individual Options 74248
Waiver by fifty-two cents for each fifteen minutes of routine 74249
homemaker/personal care provided to an individual for up to a year 74250
if all of the following apply: 74251

~~(A)~~(1) The individual was a resident of a developmental 74252
center or converted facility immediately prior to enrollment in 74253
the waiver; 74254

~~(B)~~(2) The provider begins serving the individual on or after 74255
July 1, 2011; 74256

~~(C)~~(3) The Director of Developmental Disabilities determines 74257
that the increased rate is warranted by the individual's special 74258
circumstances, including the individual's diagnosis, service 74259
needs, or length of stay at the developmental center or converted 74260
facility, and that serving the individual through the Individual 74261
Options Waiver is fiscally prudent for the Medicaid program. 74262

Sec. 267.10. EDU DEPARTMENT OF EDUCATION 74263

| | | | | | |
|----------------------|---|-----------|------------|---------------------------|-------|
| General Revenue Fund | | | | | 74264 |
| GRF 200100 | Personal Services | \$ | 8,579,178 | \$ 8,579,178 0 | 74265 |
| GRF 200320 | Maintenance and Equipment | \$ | 2,830,407 | \$ 2,830,407 0 | 74266 |
| <u>GRF 200321</u> | <u>Operating Expenses</u> | <u>\$</u> | <u>0</u> | <u>\$ 13,142,780</u> | 74267 |
| GRF 200408 | Early Childhood Education | \$ | 23,268,341 | \$ 23,268,341 | 74268 |
| GRF 200416 | Career-Technical Education Match | \$ | 2,233,195 | \$ 2,233,195 0 | 74269 |
| GRF 200420 | Computer/Application/ Network Information Technology Development <u>and Support</u> | \$ | 4,241,296 | \$ 4,241,296 | 74270 |
| GRF 200421 | Alternative Education Programs | \$ | 7,403,998 | \$ 7,403,998 | 74271 |
| GRF 200422 | School Management Assistance | \$ | 2,842,812 | \$ 3,000,000 | 74272 |
| GRF 200424 | Policy Analysis | \$ | 328,558 | \$ 328,558 | 74273 |
| GRF 200425 | Tech Prep Consortia Support | \$ | 260,542 | \$ 260,542 | 74274 |
| GRF 200426 | Ohio Educational Computer Network | \$ | 17,974,489 | \$ 17,974,489 | 74275 |
| GRF 200427 | Academic Standards | \$ | 4,346,060 | \$ 3,700,000 | 74276 |
| GRF 200437 | Student Assessment | \$ | 55,002,167 | \$ 55,002,167 | 74277 |
| GRF 200439 | Accountability/Report Cards | \$ | 3,579,279 | \$ 3,579,279 | 74278 |
| GRF 200442 | Child Care Licensing | \$ | 827,140 | \$ 827,140 | 74279 |
| GRF 200446 | Education Management Information System | \$ | 6,833,070 | \$ 6,833,070 | 74280 |
| GRF 200447 | GED Testing | \$ | 879,551 | \$ 879,551 | 74281 |
| GRF 200448 | Educator Preparation | \$ | 786,737 | \$ 786,737 | 74282 |
| GRF 200455 | Community Schools and Choice Programs | \$ | 2,200,000 | \$ 2,200,000 | 74283 |

| | | | | | | |
|--------------------------------|---------------------------------|----|---------------|----|--------------------------|-------|
| GRF 200464 | <u>General Technology</u> | \$ | <u>0</u> | \$ | <u>501,677</u> | 74284 |
| | <u>Operations</u> | | | | | |
| GRF 200502 | Pupil Transportation | \$ | 438,248,936 | \$ | 442,113,527 | 74285 |
| GRF 200505 | School Lunch Match | \$ | 9,100,000 | \$ | 9,100,000 | 74286 |
| GRF 200511 | Auxiliary Services | \$ | 124,194,099 | \$ | 126,194,099 | 74287 |
| GRF 200532 | Nonpublic | \$ | 56,164,384 | \$ | 57,006,850 | 74288 |
| | Administrative Cost | | | | | |
| | Reimbursement | | | | | |
| GRF 200540 | Special Education | \$ | 135,820,668 | \$ | 135,820,668 | 74289 |
| | Enhancements | | | | | |
| GRF 200545 | Career-Technical | \$ | 8,802,699 | \$ | 8,802,699 | 74290 |
| | Education Enhancements | | | | | |
| GRF 200550 | Foundation Funding | \$ | 5,536,347,861 | \$ | 5,610,290,686 | 74291 |
| | | | | | <u>5,612,562,311</u> | |
| GRF 200901 | Property Tax | \$ | 1,086,500,000 | \$ | 1,095,000,000 | 74292 |
| | Allocation - Education | | | | | |
| TOTAL GRF General Revenue Fund | | \$ | 7,539,595,467 | \$ | 7,628,256,477 | 74293 |
| | | | | | <u>7,630,529,779</u> | |
| General Services Fund Group | | | | | | 74294 |
| 1380 200606 | Computer | \$ | 7,600,090 | \$ | 7,600,090 | 74295 |
| | 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 | 74296 |
| | Educational Services | | | | | |
| | <u>Fees and Refunds</u> | | | | | |
| 4L20 200681 | Teacher Certification | \$ | 8,147,756 | \$ | 8,147,756 | 74297 |
| | and Licensure | | | | | |
| 5960 200656 | Ohio Career | \$ | 529,761 | \$ | 529,761 | 74298 |
| | Information System | | | | | |
| 5H30 200687 | School District | \$ | 25,000,000 | \$ | 25,000,000 | 74299 |

| | | Solvency Assistance | | | |
|------------------------------------|--------|-----------------------|--------------------------|---------------|-------|
| TOTAL GSF General Services | | | | 74300 | |
| Fund Group | | \$ 41,577,607 | \$ 41,577,607 | 74301 | |
| | | | <u>40,077,607</u> | | |
| Federal Special Revenue Fund Group | | | | 74302 | |
| 3090 | 200601 | Neglected and | \$ 2,168,642 | \$ 2,168,642 | 74303 |
| | | Delinquent Education | | | |
| 3670 | 200607 | School Food Services | \$ 6,803,472 | \$ 6,959,906 | 74304 |
| 3690 | 200616 | Career-Technical | \$ 5,000,000 | \$ 5,000,000 | 74305 |
| | | Education Federal | | | |
| | | Enhancement | | | |
| 3700 | 200624 | Education of | \$ 1,905,000 | \$ 0 | 74306 |
| | | Exceptional Children | | | |
| 3780 | 200660 | Learn and Serve | \$ 619,211 | \$ 619,211 | 74307 |
| 3AF0 | 200603 | Schools Medicaid | \$ 639,000 | \$ 639,000 | 74308 |
| | | Administrative Claims | | | |
| 3AN0 | 200671 | School Improvement | \$ 20,400,000 | \$ 20,400,000 | 74309 |
| | | Grants | | | |
| 3AX0 | 200698 | Improving Health and | \$ 630,954 | \$ 630,954 | 74310 |
| | | Educational Outcomes | | | |
| | | of Young People | | | |
| 3BK0 | 200628 | Longitudinal Data | \$ 500,000 | \$ 250,000 | 74311 |
| | | Systems | | | |
| 3C50 | 200661 | Early Childhood | \$ 14,554,749 | \$ 14,554,749 | 74312 |
| | | Education | | | |
| 3CG0 | 200646 | Teacher Incentive | \$ 1,925,881 | \$ 0 | 74313 |
| | | Fund | | | |
| 3D10 | 200664 | Drug Free Schools | \$ 1,500,000 | \$ 0 | 74314 |
| 3D20 | 200667 | Math Science | \$ 9,500,001 | \$ 9,500,001 | 74315 |
| | | Partnerships | | | |
| 3DG0 | 200630 | Federal Stimulus - | \$ 330,512 | \$ 0 | 74316 |
| | | McKinney Vento Grants | | | |
| 3DJ0 | 200699 | IDEA Part B - Federal | \$ 21,886,803 | \$ 0 | 74317 |

| | | | | | | | |
|------|--------|-----------------------|----|-------------|----|-------------|-------|
| | | Stimulus | | | | | |
| 3DK0 | 200642 | Title 1A - Federal | \$ | 18,633,673 | \$ | 0 | 74318 |
| | | Stimulus | | | | | |
| 3DL0 | 200650 | IDEA Preschool - | \$ | 670,000 | \$ | 0 | 74319 |
| | | Federal Stimulus | | | | | |
| 3DM0 | 200651 | Title IID Technology | \$ | 1,195,100 | \$ | 0 | 74320 |
| | | - Federal Stimulus | | | | | |
| 3DP0 | 200652 | Title I School | \$ | 48,500,000 | \$ | 30,000,000 | 74321 |
| | | Improvement - Federal | | | | | |
| | | Stimulus | | | | | |
| 3EC0 | 200653 | Teacher Incentive - | \$ | 7,500,000 | \$ | 7,500,000 | 74322 |
| | | Federal Stimulus | | | | | |
| 3EH0 | 200620 | Migrant Education | \$ | 2,645,905 | \$ | 2,645,905 | 74323 |
| 3EJ0 | 200622 | Homeless Children | \$ | 1,759,782 | \$ | 1,759,782 | 74324 |
| | | Education | | | | | |
| 3EN0 | 200655 | State Data Systems - | \$ | 2,500,000 | \$ | 2,500,000 | 74325 |
| | | Federal Stimulus | | | | | |
| 3ES0 | 200657 | General Supervisory | \$ | 500,000 | \$ | 500,000 | 74326 |
| | | Enhancement Grant | | | | | |
| 3ET0 | 200658 | Education Jobs Fund | \$ | 300,000,000 | \$ | 50,000,000 | 74327 |
| 3FD0 | 200665 | Race to the Top | \$ | 100,000,000 | \$ | 100,000,000 | 74328 |
| 3FE0 | 200669 | Striving Readers | \$ | 180,000 | \$ | 100,000 | 74329 |
| 3H90 | 200605 | Head Start | \$ | 225,000 | \$ | 225,000 | 74330 |
| | | Collaboration Project | | | | | |
| 3L60 | 200617 | Federal School Lunch | \$ | 327,516,539 | \$ | 337,323,792 | 74331 |
| 3L70 | 200618 | Federal School | \$ | 87,596,850 | \$ | 90,224,756 | 74332 |
| | | Breakfast | | | | | |
| 3L80 | 200619 | Child/Adult Food | \$ | 100,850,833 | \$ | 103,876,359 | 74333 |
| | | Programs | | | | | |
| 3L90 | 200621 | Career-Technical | \$ | 48,466,864 | \$ | 48,466,864 | 74334 |
| | | Education Basic Grant | | | | | |
| 3M00 | 200623 | ESEA Title 1A | \$ | 530,010,000 | \$ | 530,010,000 | 74335 |
| 3M20 | 200680 | Individuals with | \$ | 443,170,050 | \$ | 443,170,050 | 74336 |

| | | | | | | | |
|--------------------|--------|---------------------------------------|----|---------------|----|--------------------------|-------|
| | | Disabilities | | | | | |
| | | Education Act | | | | | |
| 3S20 | 200641 | Education Technology | \$ | 9,487,397 | \$ | 9,487,397 | 74337 |
| 3T40 | 200613 | Public Charter | \$ | 14,291,353 | \$ | 14,291,353 | 74338 |
| | | Schools | | | | | |
| 3Y20 | 200688 | 21st Century | \$ | 43,720,462 | \$ | 45,906,485 | 74339 |
| | | Community Learning | | | | | |
| | | Centers | | | | | |
| 3Y60 | 200635 | Improving Teacher | \$ | 101,900,000 | \$ | 101,900,000 | 74340 |
| | | Quality | | | | | |
| 3Y70 | 200689 | English Language | \$ | 8,373,995 | \$ | 8,373,995 | 74341 |
| | | Acquisition | | | | | |
| 3Y80 | 200639 | Rural and Low Income | \$ | 1,500,000 | \$ | 1,500,000 | 74342 |
| | | Technical Assistance | | | | | |
| 3Z20 | 200690 | State Assessments | \$ | 11,882,258 | \$ | 11,882,258 | 74343 |
| 3Z30 | 200645 | Consolidated Federal | \$ | 8,949,280 | \$ | 8,949,280 | 74344 |
| | | Grant Administration | | | | <u>7,949,280</u> | |
| TOTAL FED | | Federal Special | | | | | 74345 |
| Revenue Fund Group | | | \$ | 2,310,389,566 | \$ | 2,011,315,739 | 74346 |
| | | | | | | <u>2,010,315,739</u> | |
| State Special | | Revenue Fund Group | | | | | 74347 |
| 4540 | 200610 | Guidance and <u>GED</u> | \$ | 1,050,000 | \$ | 1,050,000 | 74348 |
| | | Testing | | | | | |
| 4550 | 200608 | Commodity Foods | \$ | 24,000,000 | \$ | 24,000,000 | 74349 |
| 4R70 | 200695 | Indirect Operational | \$ | 6,500,000 | \$ | 6,600,000 | 74350 |
| | | Support | | | | | |
| 4V70 | 200633 | Interagency | \$ | 1,117,725 | \$ | 1,117,725 | 74351 |
| | | Operational <u>Program</u> | | | | <u>717,725</u> | |
| | | Support | | | | | |
| 5980 | 200659 | Auxiliary Services | \$ | 1,328,910 | \$ | 1,328,910 | 74352 |
| | | Reimbursement | | | | | |
| 5BB0 | 200696 | State Action for | \$ | 231,300 | \$ | 0 | 74353 |
| | | Education Leadership | | | | | |

| | | | | | | | |
|--------------------------------------|---------------|---------------------------|------------------|-------------|------------------------------|-----------------------|-------|
| 5BJ0 | 200626 | Half-Mill Maintenance | \$ | 17,300,000 | \$ | 18,000,000 | 74354 |
| | | Equalization | | | | | |
| <u>5D40</u> | <u>200673</u> | <u>Conference/Special</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>100,000</u> | 74355 |
| | | <u>Purposes</u> | | | | | |
| 5U20 | 200685 | National Education | \$ | 300,000 | \$ | 300,000 | 74356 |
| | | Statistics | | | | | |
| 6200 | 200615 | Educational | \$ | 3,000,000 | \$ | 3,000,000 | 74357 |
| | | Improvement Grants | | | | | |
| TOTAL SSR State Special Revenue | | | | | | | 74358 |
| Fund Group | | | \$ | 54,827,935 | \$ | 55,396,635 | 74359 |
| | | | | | | <u>55,096,635</u> | |
| Lottery Profits Education Fund Group | | | | | | | 74360 |
| 7017 | 200612 | Foundation Funding | \$ | 717,500,000 | \$ | 680,500,000 | 74361 |
| TOTAL LPE Lottery Profits | | | | | | | 74362 |
| Education Fund Group | | | \$ | 717,500,000 | \$ | 680,500,000 | 74363 |
| Revenue Distribution Fund Group | | | | | | | 74364 |
| 7047 | 200909 | School District | \$ | 722,000,000 | \$ | 475,000,000 | 74365 |
| | | Property Tax | | | | | |
| | | Replacement-Business | | | | | |
| 7053 | 200900 | School District | \$ | 34,000,000 | \$ | 30,000,000 | 74366 |
| | | Property Tax | | | | | |
| | | Replacement-Utility | | | | | |
| TOTAL RDF Revenue Distribution | | | | | | | 74367 |
| Fund Group | | | \$ | 756,000,000 | \$ | 505,000,000 | 74368 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | | 74369 |
| | | | \$11,419,890,575 | | \$ 10,922,046,458 | <u>10,921,519,760</u> | |

Sec. 267.10.10. OPERATING EXPENSES

74371

The foregoing appropriation item 200321, Operating Expenses, 74372
shall be used to support the same activities as are supported 74373
prior to July 1, 2012, by appropriation items 200100, Personal 74374
Services, and 200320, Maintenance and Equipment. A portion of this 74375

appropriation item also shall be used by the Department of 74376
Education to provide matching funds under 20 U.S.C. 2321, which 74377
are provided by appropriation item 200416, Career-Technical 74378
Education Match, prior to July 1, 2012. 74379

On July 1, 2012, or as soon as possible thereafter, the 74380
Director of Budget and Management shall cancel any existing 74381
encumbrances against appropriation items 200100, Personal 74382
Services, 200320, Maintenance and Equipment, and 200416, 74383
Career-Technical Education Match, and reestablish them against 74384
appropriation item 200321, Operating Expenses. The reestablished 74385
encumbrance amounts are hereby appropriated. 74386

EARLY CHILDHOOD EDUCATION 74387

The Department of Education shall distribute the foregoing 74388
appropriation item 200408, Early Childhood Education, to pay the 74389
costs of early childhood education programs. 74390

(A) As used in this section: 74391

(1) "Provider" means a city, local, exempted village, or 74392
joint vocational school district, or an educational service 74393
center. 74394

(2) In the case of a city, local, or exempted village school 74395
district, "new eligible provider" means a district that did not 74396
receive state funding for Early Childhood Education in the 74397
previous fiscal year or demonstrates a need for early childhood 74398
programs as defined in division (D) of this section. 74399

(3) "Eligible child" means a child who is at least three 74400
years of age as of the district entry date for kindergarten, is 74401
not of the age to be eligible for kindergarten, and whose family 74402
earns not more than two hundred per cent of the federal poverty 74403
guidelines as defined in division (A)(3) of section 5101.46 of the 74404
Revised Code. Children with an Individualized Education Program 74405
and where the Early Childhood Education program is the least 74406

restrictive environment may be enrolled on their third birthday. 74407

(B) In each fiscal year, up to two per cent of the total 74408
appropriation may be used by the Department for program support 74409
and technical assistance. The Department shall distribute the 74410
remainder of the appropriation in each fiscal year to serve 74411
eligible children. 74412

(C) The Department shall provide an annual report to the 74413
Governor, the Speaker of the House of Representatives, and the 74414
President of the Senate and post the report to the Department's 74415
web site, regarding early childhood education programs operated 74416
under this section and the early learning program guidelines. 74417

(D) After setting aside the amounts to make payments due from 74418
the previous fiscal year, in fiscal year 2012, the Department 74419
shall distribute funds first to recipients of funds for early 74420
childhood education programs under Section 265.10.20 of Am. Sub. 74421
H.B. 1 of the 128th General Assembly in the previous fiscal year 74422
and the balance to new eligible providers of early childhood 74423
education programs under this section or to existing providers to 74424
serve more eligible children or for purposes of program expansion, 74425
improvement, or special projects to promote quality and 74426
innovation. 74427

After setting aside the amounts to make payments due from the 74428
previous fiscal year, in fiscal year 2013, the Department shall 74429
distribute funds first to providers of early childhood education 74430
programs under this section in the previous fiscal year and the 74431
balance to new eligible providers or to existing providers to 74432
serve more eligible children or for purposes of program expansion, 74433
improvement, or special projects to promote quality and 74434
innovation. 74435

Awards under this section shall be distributed on a per-pupil 74436
basis, and in accordance with division (H) of this section. The 74437

Department may adjust the per-pupil amount so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services on the first day of December or the business day closest to that date equals the amount allocated under this section.

(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 74470
plan shall include a schedule for monitoring by the Department. 74471
Such monitoring may include monthly reports, inspections, a 74472
timeline for correction of deficiencies, and technical assistance 74473
to be provided by the Department or obtained by the early 74474
childhood education program. The Department may withhold funding 74475
pending corrective action. If an early childhood education program 74476
fails to satisfactorily complete a corrective action plan, the 74477
Department may deny expansion funding to the program or withdraw 74478
all or part of the funding to the program and establish a new 74479
eligible provider through a selection process established by the 74480
Department. 74481

(G) Each early childhood education program shall do all of 74482
the following: 74483

(1) Meet teacher qualification requirements prescribed by 74484
section 3301.311 of the Revised Code; 74485

(2) Align curriculum to the early learning content standards 74486
developed by the Department; 74487

(3) Meet any child or program assessment requirements 74488
prescribed by the Department; 74489

(4) Require teachers, except teachers enrolled and working to 74490
obtain a degree pursuant to section 3301.311 of the Revised Code, 74491
to attend a minimum of twenty hours every two years of 74492
professional development as prescribed by the Department; 74493

(5) Document and report child progress as prescribed by the 74494
Department; 74495

(6) Meet and report compliance with the early learning 74496
program guidelines as prescribed by the Department; 74497

(7) Participate in the tiered quality rating and improvement 74498
system developed under section 5104.30 of the Revised Code. 74499

Effective July 1, 2016, all programs shall be rated through the 74500
system. 74501

(H) Per-pupil funding for programs subject to this section 74502
shall be sufficient to provide eligible children with services for 74503
a standard early childhood schedule which shall be defined in this 74504
section as a minimum of twelve and one-half hours per school week 74505
as defined in section 3313.62 of the Revised Code for the minimum 74506
school year as defined in sections 3313.48, 3313.481, and 3313.482 74507
of the Revised Code. Nothing in this section shall be construed to 74508
prohibit program providers from utilizing other funds to serve 74509
eligible children in programs that exceed the twelve and one-half 74510
hours per week or that exceed the minimum school year. For any 74511
provider for which a standard early childhood education schedule 74512
creates a hardship or for which the provider shows evidence that 74513
the provider is working in collaboration with a preschool special 74514
education program, the provider may submit a waiver to the 74515
Department requesting an alternate schedule. If the Department 74516
approves a waiver for an alternate schedule that provides services 74517
for less time than the standard early childhood education 74518
schedule, the Department may reduce the provider's annual 74519
allocation proportionately. Under no circumstances shall an annual 74520
allocation be increased because of the approval of an alternate 74521
schedule. 74522

(I) Each provider shall develop a sliding fee scale based on 74523
family incomes and shall charge families who earn more than two 74524
hundred per cent of the federal poverty guidelines, as defined in 74525
division (A)(3) of section 5101.46 of the Revised Code, for the 74526
early childhood education program. 74527

The Department shall conduct an annual survey of each 74528
provider to determine whether the provider charges families 74529
tuition or fees, the amount families are charged relative to 74530
family income levels, and the number of families and students 74531

charged tuition and fees for the early childhood program. 74532

(J) If an early childhood education program voluntarily 74533
waives its right for funding, or has its funding eliminated for 74534
not meeting financial standards or the early learning program 74535
guidelines, the provider shall transfer control of title to 74536
property, equipment, and remaining supplies obtained through the 74537
program to providers designated by the Department and return any 74538
unexpended funds to the Department along with any reports 74539
prescribed by the Department. The funding made available from a 74540
program that waives its right for funding or has its funding 74541
eliminated or reduced may be used by the Department for new grant 74542
awards or expansion grants. The Department may award new grants or 74543
expansion grants to eligible providers who apply. The eligible 74544
providers who apply must do so in accordance with the selection 74545
process established by the Department. 74546

(K) As used in this section, "early learning program 74547
guidelines" means the guidelines established by the Department 74548
pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 74549
66 of the 126th General Assembly. 74550

(L) Eligible expenditures for the Early Childhood Education 74551
program shall be claimed each fiscal year to help meet the state's 74552
TANF maintenance of effort requirement. The Superintendent of 74553
Public Instruction and the Director of Job and Family Services 74554
shall enter into an interagency agreement to carry out the 74555
requirements under this division, which shall include developing 74556
reporting guidelines for these expenditures. 74557

Sec. 267.10.20. CAREER-TECHNICAL EDUCATION MATCH 74558

The For fiscal year 2012, the foregoing appropriation item 74559
200416, Career-Technical Education Match, shall be used by the 74560
Department of Education to provide ~~vocational administration~~ 74561
matching funds under 20 U.S.C. ~~2311~~ 2321. 74562

~~The Director of Budget and Management shall transfer any remaining appropriation from appropriation item 200416, Career Technical Education Match, to appropriation item 200426, Ohio Educational Computer Network, to support the Ohio Educational Computer Network.~~

COMPUTER/APPLICATION/NETWORK INFORMATION TECHNOLOGY DEVELOPMENT AND SUPPORT

The foregoing appropriation item 200420, Computer/Application/Network Information Technology Development and Support, shall be used to support the development and implementation of information technology solutions designed to improve the performance and services of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts, administrators, and legislators. Funds may also be used to support data-driven decision-making and differentiated instruction, as well as to communicate academic content standards and curriculum models to schools through web-based applications.

Sec. 267.10.40. SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200422, School Management Assistance, \$1,000,000 in each fiscal year ~~2012 and \$1,300,000 in fiscal year 2013~~ shall be used by the Auditor of State in consultation with the Department of Education for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code and may also be used by the Auditor of State to conduct performance audits of other school

districts with priority given to districts in fiscal distress. 74594
Districts in fiscal distress shall be determined by the Auditor of 74595
State and shall include districts that the Auditor of State, in 74596
consultation with the Department of Education, determines are 74597
employing fiscal practices or experiencing budgetary conditions 74598
that could produce a state of fiscal watch or fiscal emergency. 74599

The remainder of appropriation item 200422, School Management 74600
Assistance, shall be used by the Department of Education to 74601
provide fiscal technical assistance and inservice education for 74602
school district management personnel and to administer, monitor, 74603
and implement the fiscal caution, fiscal watch, and fiscal 74604
emergency provisions under Chapter 3316. of the Revised Code. 74605

Sec. 267.30.20. SPECIAL EDUCATION ENHANCEMENTS 74606

Of the foregoing appropriation item 200540, Special Education 74607
Enhancements, up to \$2,206,875 in each fiscal year shall be used 74608
for home instruction for children with disabilities. 74609

Of the foregoing appropriation item 200540, Special Education 74610
Enhancements, up to \$45,282,959 in each fiscal year shall be used 74611
to fund special education and related services at county boards of 74612
developmental disabilities for eligible students under section 74613
3317.20 of the Revised Code and at institutions for eligible 74614
students under section 3317.201 of the Revised Code. 74615
Notwithstanding the distribution formulas under sections 3317.20 74616
and 3317.201 of the Revised Code, funding for DD boards and 74617
institutions for fiscal year 2012 and fiscal year 2013 shall be 74618
determined by providing the per pupil amount received by each DD 74619
board and institution for the prior fiscal year for each student 74620
served in the current fiscal year. 74621

Of the foregoing appropriation item 200540, Special Education 74622
Enhancements, up to \$1,333,468 in each fiscal year shall be used 74623
for parent mentoring programs. 74624

Of the foregoing appropriation item 200540, Special Education 74625
Enhancements, up to \$2,537,824 in each fiscal year may be used for 74626
school psychology interns. 74627

The remainder of appropriation item 200540, Special Education 74628
Enhancements, shall be distributed by the Department of Education 74629
to county boards of developmental disabilities, educational 74630
service centers, and school districts for preschool special 74631
education units and preschool supervisory units under section 74632
3317.052 of the Revised Code. To the greatest extent possible, the 74633
Department of Education shall allocate these units to school 74634
districts and educational service centers. 74635

The Department may reimburse county DD boards, educational 74636
service centers, and school districts for services provided by 74637
instructional assistants, related services as defined in rule 74638
3301-51-11 of the Administrative Code, physical therapy services 74639
provided by a licensed physical therapist or physical therapist 74640
assistant under the supervision of a licensed physical therapist 74641
as required under Chapter 4755. of the Revised Code and Chapter 74642
4755-27 of the Administrative Code and occupational therapy 74643
services provided by a licensed occupational therapist or 74644
occupational therapy assistant under the supervision of a licensed 74645
occupational therapist as required under Chapter 4755. of the 74646
Revised Code and Chapter 4755-7 of the Administrative Code. 74647
Nothing in this section authorizes occupational therapy assistants 74648
or physical therapist assistants to generate or manage their own 74649
caseloads. 74650

The Department of Education shall require school districts, 74651
educational service centers, and county DD boards serving 74652
preschool children with disabilities to adhere to Ohio's Early 74653
Learning Program Guidelines, participate in the tiered quality 74654
rating and improvement system developed under section 5104.30 of 74655
the Revised Code, and document child progress using research-based 74656

indicators prescribed by the Department and report results 74657
annually. The reporting dates and method shall be determined by 74658
the Department. Effective July 1, 2018, all programs shall be 74659
rated through the tiered quality rating and improvement system. 74660

Sec. 267.30.40. FOUNDATION FUNDING 74661

Of the foregoing appropriation item 200550, Foundation 74662
Funding, up to \$675,000 in each fiscal year shall be used to 74663
support the work of the College of Education and Human Ecology at 74664
the Ohio State University in reviewing and assessing the alignment 74665
of courses offered through the distance learning clearinghouse 74666
established in sections 3333.81 to 3333.88 of the Revised Code 74667
with the academic content standards adopted under division (A) of 74668
section 3301.079 of the Revised Code. 74669

Of the foregoing appropriation item 200550, Foundation 74670
Funding, up to \$250,000 in each fiscal year may be used by the 74671
Department to fund a shared services pilot project involving at 74672
least two educational service centers. The pilot project shall 74673
focus on the design, implementation, and evaluation of a shared 74674
service delivery model. The educational service centers 74675
participating in the pilot project shall submit a report not later 74676
than September 1, 2013, to the Governor, members of the General 74677
Assembly, and members of the State Board of Education, reviewing 74678
the opportunities and challenges of implementing shared services 74679
initiatives as well as any real or projected cost efficiencies 74680
achieved through the pilot project. 74681

Of the foregoing appropriation item 200550, Foundation 74682
Funding, up to \$50,000 shall be expended in each fiscal year for 74683
court payments under section 2151.362 of the Revised Code. 74684

Of the foregoing appropriation item 200550, Foundation 74685
Funding, up to \$8,100,000 in each fiscal year shall be used to 74686
fund gifted education at educational service centers. 74687

Notwithstanding division (D)(5) of section 3317.018 of the Revised Code, the Department shall distribute the funding through the unit-based funding methodology in place under division (L) of section 3317.024, division (E) of section 3317.05, and divisions (A), (B), and (C) of section 3317.053 of the Revised Code as they existed prior to fiscal year 2010.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$10,000,000 in each fiscal year shall be used to provide additional state aid to school districts, joint vocational school districts, and community schools for special education students under division (C)(3) of section 3317.022 of the Revised Code, except that the Controlling Board may increase these amounts if presented with such a request from the Department of Education at the final meeting of the fiscal year; and up to \$2,000,000 in each fiscal year shall be reserved for Youth Services tuition payments under section 3317.024 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$41,760,000 in fiscal year 2012 and up to \$35,496,000 in fiscal year 2013 shall be reserved to fund the state reimbursement of educational service centers under section 3317.11 of the Revised Code and the section of this act entitled "EDUCATIONAL SERVICE CENTERS FUNDING"; and up to \$3,545,752 in each fiscal year shall be distributed to educational service centers for School Improvement Initiatives. Educational service centers shall be required to support districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$700,000 in each fiscal year shall be used by the

Department of Education for a program to pay for educational 74720
services for youth who have been assigned by a juvenile court or 74721
other authorized agency to any of the facilities described in 74722
division (A) of the section of this act entitled "PRIVATE 74723
TREATMENT FACILITY PROJECT." 74724

Of the foregoing appropriation item 200550, Foundation 74725
Funding, up to \$12,522,860 in ~~each~~ fiscal year 2012 and up to 74726
\$14,794,485 in fiscal year 2013 shall be used to support ~~the~~ 74727
~~Cleveland~~ school choice ~~program~~ programs. 74728

Of the portion of the funds distributed to the Cleveland 74729
Municipal School District under this section, up to \$11,901,887 in 74730
each fiscal year shall be used to operate the school choice 74731
program in the Cleveland Municipal School District under sections 74732
3313.974 to 3313.979 of the Revised Code. Notwithstanding 74733
divisions (B) and (C) of section 3313.978 and division (C) of 74734
section 3313.979 of the Revised Code, up to \$1,000,000 in each 74735
fiscal year of this amount shall be used by the Cleveland 74736
Municipal School District to provide tutorial assistance as 74737
provided in division (H) of section 3313.974 of the Revised Code. 74738
The Cleveland Municipal School District shall report the use of 74739
these funds in the district's three-year continuous improvement 74740
plan as described in section 3302.04 of the Revised Code in a 74741
manner approved by the Department of Education. 74742

Any sums, in addition to the amounts specifically 74743
appropriated in appropriation item 200550, Foundation Funding, for 74744
payments of the scholarships required under sections 3313.974 to 74745
3313.979 of the Revised Code, which are determined to be necessary 74746
by the Superintendent of Public Instruction, are hereby 74747
appropriated. 74748

Of the foregoing appropriation item 200550, Foundation 74749
Funding, an amount shall be available in each fiscal year to be 74750
paid to joint vocational school districts in accordance with the 74751

section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 74752
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Of the foregoing appropriation item 200550, Foundation Funding, a portion in each fiscal year shall be paid to city, exempted village, and local school districts in accordance with the section of this act entitled "SUPPLEMENTAL SCHOOL DISTRICT FUNDING." 74754
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Of the foregoing appropriation item 200550, Foundation Funding, a portion in each fiscal year shall be paid to school districts and community schools in accordance with the section of this act entitled "SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS." 74759
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The remainder of appropriation item 200550, Foundation Funding, shall be used to distribute the amounts calculated for formula aid under Section 267.30.50 of this act. 74763
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Appropriation items 200502, Pupil Transportation, 200540, Special Education Enhancements, and 200550, Foundation Funding, other than specific set-asides, are collectively used in each fiscal year to pay state formula aid obligations for school districts, community schools, STEM schools, and joint vocational school districts under this act. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations. It may be necessary to reallocate funds among these appropriation items or use excess funds from other general revenue fund appropriation items in the Department of Education's budget in each fiscal year, in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items or to transfer funds from other General Revenue Fund appropriations in the Department of Education's budget to meet state formula aid obligations, the Department of Education shall seek approval from the Controlling Board to transfer funds as needed. 74766
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|---|---------------|-----------------------|--|-------|
| Sec. 279.10. EPA ENVIRONMENTAL PROTECTION AGENCY | | | | 74783 |
| General Services Fund Group | | | | 74784 |
| 1990 | 715602 | Laboratory Services | \$ 402,295 \$ 408,560 | 74785 |
| 2190 | 715604 | Central Support | \$ 8,594,348 \$ 8,555,680 | 74786 |
| Indirect | | | | |
| 4A10 | 715640 | Operating Expenses | \$ 2,304,267 \$ 2,093,039 | 74787 |
| <u>4D50</u> | <u>715618</u> | <u>Recycled State</u> | <u>\$ 0 \$ 50,000</u> | 74788 |
| <u>Materials</u> | | | | |
| TOTAL GSF General Services | | | | 74789 |
| Fund Group | | | | 74790 |
| | | | \$ 11,300,910 \$ 11,057,279 | |
| | | | <u>11,107,279</u> | |
| Federal Special Revenue Fund Group | | | | 74791 |
| 3530 | 715612 | Public Water Supply | \$ 2,941,282 \$ 2,941,282 | 74792 |
| 3540 | 715614 | Hazardous Waste | \$ 4,193,000 \$ 4,193,000 | 74793 |
| Management - Federal | | | | |
| 3570 | 715619 | Air Pollution Control | \$ 6,310,203 \$ 6,310,203 | 74794 |
| - Federal | | | | |
| 3620 | 715605 | Underground Injection | \$ 111,874 \$ 111,874 | 74795 |
| Control - Federal | | | | |
| 3BU0 | 715684 | Water Quality | \$ 8,100,000 \$ 6,785,000 | 74796 |
| Protection | | | | |
| 3CS0 | 715688 | Federal NRD | \$ 100,000 \$ 100,000 | 74797 |
| Settlements | | | | |
| 3F20 | 715630 | Revolving Loan Fund - | \$ 907,543 \$ 907,543 | 74798 |
| Operating | | | | |
| 3F30 | 715632 | Federally Supported | \$ 3,344,746 \$ 3,290,405 | 74799 |
| Cleanup and Response | | | | |
| 3F50 | 715641 | Nonpoint Source | \$ 6,265,000 \$ 6,260,000 | 74800 |
| Pollution Management | | | | |
| 3T30 | 715669 | Drinking Water State | \$ 2,273,323 \$ 2,273,323 | 74801 |
| Revolving Fund | | | | |

| | | | | | | | |
|----------------------------------|---------------|-------------------------------------|----|------------|----|------------------|-------|
| 3V70 | 715606 | Agencywide Grants | \$ | 600,000 | \$ | 600,000 | 74802 |
| TOTAL FED | | Federal Special Revenue | | | | | 74803 |
| Fund Group | | | \$ | 35,146,971 | \$ | 33,772,630 | 74804 |
| State Special Revenue Fund Group | | | | | | | 74805 |
| 4J00 | 715638 | Underground Injection Control | \$ | 445,234 | \$ | 445,571 | 74806 |
| 4K20 | 715648 | Clean Air - Non Title V | \$ | 3,152,306 | \$ | 2,906,267 | 74807 |
| 4K30 | 715649 | Solid Waste | \$ | 16,742,551 | \$ | 16,414,654 | 74808 |
| 4K40 | 715650 | Surface Water Protection | \$ | 7,642,625 | \$ | 6,672,246 | 74809 |
| 4K40 | 715686 | Environmental Lab Service | \$ | 2,096,007 | \$ | 2,096,007 | 74810 |
| 4K50 | 715651 | Drinking Water Protection | \$ | 7,410,118 | \$ | 7,405,428 | 74811 |
| 4P50 | 715654 | Cozart Landfill | \$ | 100,000 | \$ | 100,000 | 74812 |
| 4R50 | 715656 | Scrap Tire Management | \$ | 1,368,610 | \$ | 1,376,742 | 74813 |
| 4R90 | 715658 | Voluntary Action Program | \$ | 999,503 | \$ | 997,425 | 74814 |
| 4T30 | 715659 | Clean Air - Title V Permit Program | \$ | 16,349,471 | \$ | 16,241,822 | 74815 |
| 4U70 | 715660 | Construction and Demolition Debris | \$ | 425,913 | \$ | 433,591 | 74816 |
| 5000 | 715608 | Immediate Removal Special Account | \$ | 633,832 | \$ | 634,033 | 74817 |
| 5030 | 715621 | Hazardous Waste Facility Management | \$ | 10,241,107 | \$ | 9,789,620 | 74818 |
| 5050 | 715623 | Hazardous Waste Cleanup | \$ | 12,511,234 | \$ | 12,331,272 | 74819 |
| 5050 | 715674 | Clean Ohio Environmental Review | \$ | 108,104 | \$ | 108,104 | 74820 |
| <u>5320</u> | <u>715646</u> | <u>Recycling and Litter Control</u> | \$ | <u>0</u> | \$ | <u>4,911,575</u> | 74821 |

| | | | | | | | |
|-------------|---------------|--------------------------|-----------|------------|-----------|-----------------------|-------|
| 5410 | 715670 | Site Specific Cleanup | \$ | 2,048,101 | \$ | 2,048,101 | 74822 |
| 5420 | 715671 | Risk Management | \$ | 132,636 | \$ | 132,636 | 74823 |
| | | Reporting | | | | | |
| <u>5860</u> | <u>715637</u> | <u>Scrap Tire Market</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>1,497,645</u> | 74824 |
| | | <u>Development</u> | | | | | |
| 5920 | 715627 | Anti Tampering | \$ | 2,285 | \$ | 2,285 | 74825 |
| | | Settlement | | | | | |
| 5BC0 | 715617 | Clean Ohio | \$ | 611,455 | \$ | 611,455 | 74826 |
| 5BC0 | 715622 | Local Air Pollution | \$ | 2,297,980 | \$ | 2,297,980 | 74827 |
| | | Control | | | | | |
| 5BC0 | 715624 | Surface Water | \$ | 8,970,181 | \$ | 9,114,974 | 74828 |
| 5BC0 | 715672 | Air Pollution Control | \$ | 4,438,629 | \$ | 4,534,758 | 74829 |
| 5BC0 | 715673 | Drinking and Ground | \$ | 4,317,527 | \$ | 4,323,521 | 74830 |
| | | Water | | | | | |
| 5BC0 | 715675 | Hazardous Waste | \$ | 95,266 | \$ | 95,266 | 74831 |
| 5BC0 | 715676 | Assistance and | \$ | 640,179 | \$ | 645,069 | 74832 |
| | | Prevention | | | | | |
| 5BC0 | 715677 | Laboratory | \$ | 939,717 | \$ | 958,586 | 74833 |
| 5BC0 | 715678 | Corrective Actions | \$ | 31,765 | \$ | 105,423 | 74834 |
| 5BC0 | 715687 | Areawide Planning | \$ | 450,000 | \$ | 450,000 | 74835 |
| | | Agencies | | | | | |
| 5BC0 | 715692 | Administration | \$ | 8,562,476 | \$ | 8,212,627 | 74836 |
| 5BT0 | 715679 | C&DD Groundwater | \$ | 203,800 | \$ | 203,800 | 74837 |
| | | Monitoring | | | | | |
| 5BY0 | 715681 | Auto Emissions Test | \$ | 13,029,952 | \$ | 13,242,762 | 74838 |
| | | | | | | <u>11,242,762</u> | |
| 5CD0 | 715682 | Clean Diesel School | \$ | 600,000 | \$ | 600,000 | 74839 |
| | | Buses | | | | | |
| 5H40 | 715664 | Groundwater Support | \$ | 77,508 | \$ | 78,212 | 74840 |
| 5N20 | 715613 | Dredge and Fill | \$ | 29,250 | \$ | 29,250 | 74841 |
| 5Y30 | 715685 | Surface Water | \$ | 2,800,000 | \$ | 2,800,000 | 74842 |
| | | Improvement | | | | | |
| 6440 | 715631 | ER Radiological Safety | \$ | 279,838 | \$ | 279,966 | 74843 |

| | | | | | | | |
|--|--------|---|----|-------------|----|--|-------|
| 6600 | 715629 | Infectious Waste Management | \$ | 91,573 | \$ | 88,764 | 74844 |
| 6760 | 715642 | Water Pollution Control Loan Administration | \$ | 4,317,376 | \$ | 4,321,605 | 74845 |
| 6780 | 715635 | Air Toxic Release | \$ | 138,669 | \$ | 138,669 | 74846 |
| 6790 | 715636 | Emergency Planning | \$ | 2,623,192 | \$ | 2,623,252 | 74847 |
| 6960 | 715643 | Air Pollution Control Administration | \$ | 1,100,000 | \$ | 1,100,000 | 74848 |
| 6990 | 715644 | Water Pollution Control Administration | \$ | 220,000 | \$ | 220,000 | 74849 |
| 6A10 | 715645 | Environmental Education | \$ | 1,488,260 | \$ | 1,488,718 | 74850 |
| TOTAL SSR State Special Revenue Fund Group | | | \$ | 140,764,230 | \$ | 138,700,461 <u>143,109,681</u> | 74851 |
| Clean Ohio Conservation Fund Group | | | | | | | 74852 |
| 5S10 | 715607 | Clean Ohio - Operating | \$ | 284,083 | \$ | 284,124 | 74853 |
| TOTAL CLF Clean Ohio Conservation Fund Group | | | \$ | 284,083 | \$ | 284,124 | 74854 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 187,496,194 | \$ | 183,814,494 <u>188,273,714</u> | 74855 |

AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT 74856

On July 1 of each fiscal year, or as soon as possible 74857
thereafter, the Director of Budget and Management may transfer up 74858
to \$13,029,952 in cash in fiscal year 2012, and up to ~~\$13,242,762~~ 74859
11,242,762 in cash in fiscal year 2013 from the General Revenue 74860
Fund to the Auto Emissions Test Fund (Fund 5BY0) for the operation 74861
and oversight of the auto emissions testing program. 74862

AREAWIDE PLANNING AGENCIES 74863

The Director of Environmental Protection Agency may award 74864
grants from appropriation item 715687, Areawide Planning Agencies, 74865

to areawide planning agencies engaged in areawide water quality 74866
management and planning activities in accordance with Section 208 74867
of the "Federal Clean Water Act," 33 U.S.C. 1288. 74868

CORRECTIVE CASH TRANSFERS 74869

On July 1, 2011, or as soon as possible thereafter, the 74870
Director of Budget and Management shall transfer \$376,891.85 in 74871
cash that was mistakenly deposited in the Clean Air Non Title V 74872
Fund (Fund 4K20) to the Clean Air Title V Permit Fund (Fund 4T30). 74873

On July 1, 2011, or as soon as possible thereafter, the 74874
Director of Budget and Management shall transfer \$133,026.63 in 74875
cash that was mistakenly deposited in the Scrap Tire Management 74876
Fund (Fund 4R50) to the Site Specific Cleanup Fund (Fund 5410). 74877

Sec. 283.10. ETC ETECH OHIO 74878

General Revenue Fund 74879

GRF 935401 Statehouse News \$ 215,561 \$ ~~215,561~~ 0 74880
Bureau

GRF 935402 Ohio Government \$ 702,089 \$ ~~702,089~~ 0 74881
Telecommunications
Services

GRF 935408 General Operations \$ 1,251,789 \$ ~~1,254,193~~ 0 74882

GRF 935409 Technology Operations \$ 2,092,432 \$ ~~2,091,823~~ 0 74883

GRF 935410 Content Development, \$ 2,607,094 \$ ~~2,607,094~~ 0 74884
Acquisition, and
Distribution

GRF 935411 Technology \$ 4,251,185 \$ ~~4,252,671~~ 0 74885
Integration and
Professional
Development

GRF 935412 Information \$ 829,340 \$ ~~829,963~~ 0 74886
Technology

| | | | | | | |
|----------------------------------|----|------------|----|-----------------------|----------|-------|
| TOTAL GRF General Revenue Fund | \$ | 11,949,490 | \$ | 11,953,394 | <u>0</u> | 74887 |
| General Services Fund Group | | | | | | 74888 |
| 4F30 935603 Affiliate Services | \$ | 50,000 | \$ | 50,000 | <u>0</u> | 74889 |
| 4T20 935605 Government | \$ | 25,000 | \$ | 25,000 | <u>0</u> | 74890 |
| Television/Telecommunications | | | | | | |
| Operating | | | | | | |
| TOTAL GSF General Services Fund | \$ | 75,000 | \$ | 75,000 | <u>0</u> | 74891 |
| Group | | | | | | |
| State Special Revenue Fund Group | | | | | | 74892 |
| 4W90 935630 Telecommunity | \$ | 25,000 | \$ | 25,000 | <u>0</u> | 74893 |
| 4X10 935634 Distance Learning | \$ | 24,150 | \$ | 24,150 | <u>0</u> | 74894 |
| 5D40 935640 Conference/Special | \$ | 2,100,000 | \$ | 2,100,000 | <u>0</u> | 74895 |
| Purposes | | | | | | |
| 5FK0 935608 Media Services | \$ | 637,601 | \$ | 637,956 | <u>0</u> | 74896 |
| 5JU0 935611 Information | \$ | 1,455,000 | \$ | 1,455,000 | <u>0</u> | 74897 |
| Technology Services | | | | | | |
| 5T30 935607 Gates Foundation | \$ | 200,000 | \$ | 171,112 | <u>0</u> | 74898 |
| Grants | | | | | | |
| TOTAL SSR State Special Revenue | \$ | 4,441,751 | \$ | 4,413,218 | <u>0</u> | 74899 |
| Fund Group | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 16,466,241 | \$ | 16,441,612 | <u>0</u> | 74900 |

Sec. 283.20. STATEHOUSE NEWS BUREAU 74902

The foregoing appropriation item 935401, Statehouse News 74903
 Bureau, shall be used solely to support the operations of the Ohio 74904
 Statehouse News Bureau. 74905

OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES 74906

The foregoing appropriation item 935402, Ohio Government 74907
 Telecommunications Services, shall be used solely to support the 74908
 operations of Ohio Government Telecommunications Services which 74909
 include providing multimedia support to the state government and 74910
 its affiliated organizations and broadcasting the activities of 74911

the legislative, judicial, and executive branches of state 74912
government, among its other functions. 74913

TECHNOLOGY OPERATIONS 74914

The foregoing appropriation item 935409, Technology 74915
Operations, shall be used by eTech Ohio to pay expenses of eTech 74916
Ohio's network infrastructure, which includes the television and 74917
radio transmission infrastructure and infrastructure that shall 74918
link all public K-12 classrooms to each other and to the Internet, 74919
and provide access to voice, video, other communication services, 74920
and data educational resources for students and teachers. The 74921
foregoing appropriation item 935409, Technology Operations, may 74922
also be used to cover student costs for taking advanced placement 74923
courses and courses that the Chancellor of the Board of Regents 74924
has determined to be eligible for postsecondary credit through the 74925
Ohio Learns Gateway. To the extent that funds remain available for 74926
this purpose, public school students taking advanced placement or 74927
postsecondary courses through the OhioLearns Gateway shall be 74928
eligible to receive a fee waiver to cover the cost of 74929
participating in one course. The fee waivers shall be distributed 74930
until the funds appropriated to support the waivers have been 74931
exhausted. 74932

CONTENT DEVELOPMENT, ACQUISITION, AND DISTRIBUTION 74933

The foregoing appropriation item 935410, Content Development, 74934
Acquisition, and Distribution, shall be used for the development, 74935
acquisition, and distribution of information resources by public 74936
media and radio reading services and for educational use in the 74937
classroom and online. 74938

Of the foregoing appropriation item 935410, Content 74939
Development, Acquisition, and Distribution, up to \$658,099 in ~~each~~ 74940
fiscal year 2012 shall be allocated equally among the 12 Ohio 74941
educational television stations and used with the advice and 74942

approval of eTech Ohio. Funds shall be used for the production of 74943
interactive instructional programming series with priority given 74944
to resources aligned with state academic content standards in 74945
consultation with the Ohio Department of Education and for 74946
teleconferences to support eTech Ohio. The programming shall be 74947
targeted to the needs of the poorest two hundred school districts 74948
as determined by the district's adjusted valuation per pupil as 74949
defined in former section 3317.0213 of the Revised Code as that 74950
section existed prior to June 30, 2005. 74951

Of the foregoing appropriation item 935410, Content 74952
Development, Acquisition, and Distribution, up to \$1,749,283 in 74953
~~each~~ fiscal year 2012 shall be distributed by eTech Ohio to Ohio's 74954
qualified public educational television stations and educational 74955
radio stations to support their operations. The funds shall be 74956
distributed pursuant to an allocation formula used by the Ohio 74957
Educational Telecommunications Network Commission unless a 74958
substitute formula is developed by eTech Ohio in consultation with 74959
Ohio's qualified public educational television stations and 74960
educational radio stations. 74961

Of the foregoing appropriation item 935410, Content 74962
Development, Acquisition, and Distribution, up to \$199,712 in ~~each~~ 74963
fiscal year 2012 shall be distributed by eTech Ohio to Ohio's 74964
qualified radio reading services to support their operations. The 74965
funds shall be distributed pursuant to an allocation formula used 74966
by the Ohio Educational Telecommunications Network Commission 74967
unless a substitute formula is developed by eTech Ohio in 74968
consultation with Ohio's qualified radio reading services. 74969

Sec. 283.30. TECHNOLOGY INTEGRATION AND PROFESSIONAL 74970
DEVELOPMENT 74971

The foregoing appropriation item 935411, Technology 74972
Integration and Professional Development, shall be used by eTech 74973

Ohio for the provision of staff development, hardware, software, 74974
telecommunications services, and information resources to support 74975
educational uses of technology in the classroom and at a distance 74976
and for professional development for teachers, administrators, and 74977
technology staff on the use of educational technology in 74978
qualifying public schools, including the State School for the 74979
Blind, the State School for the Deaf, and the Department of Youth 74980
Services. 74981

Of the foregoing appropriation item 935411, Technology 74982
Integration and Professional Development, up to \$1,691,701 in each 74983
fiscal year 2012 shall be used by eTech Ohio to contract with 74984
educational television to provide Ohio public schools with 74985
instructional resources and services with priority given to 74986
resources and services aligned with state academic content 74987
standards and such resources and services shall be based upon the 74988
advice and approval of eTech Ohio, based on a formula used by the 74989
Ohio SchoolNet Commission unless and until a substitute formula is 74990
developed by eTech Ohio in consultation with Ohio's educational 74991
technology agencies and noncommercial educational television 74992
stations. 74993

Sec. 291.10. DOH DEPARTMENT OF HEALTH 74994

| | | | | | |
|----------------------|----------------------|----|-----------|-------------------------|-------|
| General Revenue Fund | | | | 74995 | |
| GRF 440412 | Cancer Incidence | \$ | 600,000 | \$ 600,000 | 74996 |
| | Surveillance System | | | | |
| GRF 440413 | Local Health | \$ | 2,302,788 | \$ 2,303,061 | 74997 |
| | Department Support | | | | |
| GRF 440416 | Mothers and Children | \$ | 4,227,842 | \$ 4,228,015 | 74998 |
| | Safety Net Services | | | | |
| GRF 440418 | Immunizations | \$ | 6,430,538 | \$ 8,930,829 | 74999 |
| | | | | <u>8,825,829</u> | |
| GRF 440431 | Free Clinics Safety | \$ | 437,326 | \$ 437,326 | 75000 |

| | | | | | |
|--|---|----|------------|----|--|
| | Net Services | | | | |
| GRF 440438 | Breast and Cervical Cancer Screening | \$ | 823,217 | \$ | 823,217 |
| | | | | | 75001 |
| GRF 440444 | AIDS Prevention and Treatment | \$ | 5,842,315 | \$ | 5,842,315 |
| | | | | | 75002 |
| GRF 440451 | Public Health Laboratory | \$ | 3,654,348 | \$ | 3,655,449 |
| | | | | | 75003 |
| GRF 440452 | Child and Family Health Services Match | \$ | 630,390 | \$ | 630,444 |
| | | | | | 75004 |
| GRF 440453 | Health Care Quality Assurance | \$ | 8,170,694 | \$ | 8,174,361 |
| | | | | | 75005 |
| GRF 440454 | Local Environmental Health | \$ | 1,310,141 | \$ | 1,310,362 <u>1,194,634</u> |
| | | | | | 75006 |
| GRF 440459 | Help Me Grow | \$ | 33,673,545 | \$ | 33,673,987 |
| | | | | | 75007 |
| GRF 440465 | Federally Qualified Health Centers | \$ | 458,688 | \$ | 2,686,688 |
| | | | | | 75008 |
| GRF 440467 | Access to Dental Care | \$ | 540,484 | \$ | 540,484 |
| | | | | | 75009 |
| GRF 440468 | Chronic Disease and Injury Prevention | \$ | 2,577,251 | \$ | 2,577,251 <u>2,447,251</u> |
| | | | | | 75010 |
| GRF 440472 | Alcohol Testing | \$ | 550,000 | \$ | 1,100,000 |
| | | | | | 75011 |
| GRF 440505 | Medically Handicapped Children | \$ | 7,512,451 | \$ | 7,512,451 |
| | | | | | 75012 |
| GRF 440507 | Targeted Health Care Services Over 21 | \$ | 1,045,414 | \$ | 1,045,414 |
| | | | | | 75013 |
| TOTAL GRF General Revenue Fund | | \$ | 80,787,432 | \$ | 86,071,654 <u>85,720,926</u> |
| | | | | | 75014 |
| | State Highway Safety Fund Group | | | | 75015 |
| 4T40 440603 | Child Highway Safety | \$ | 233,894 | \$ | 233,894 |
| | | | | | 75016 |
| TOTAL HSF State Highway Safety Fund Group | | \$ | 233,894 | \$ | 233,894 |
| | | | | | 75017 75018 |
| | General Services Fund Group | | | | 75019 |
| 1420 440646 | Agency Health | \$ | 8,825,788 | \$ | 8,826,146 |
| | | | | | 75020 |

| | | | | | | | |
|------|--------|------------------------------------|----|-------------|----|-----------------------|-------|
| | | Services | | | | | |
| 2110 | 440613 | Central Support | \$ | 28,900,000 | \$ | 29,000,000 | 75021 |
| | | Indirect Costs | | | | | |
| 4730 | 440622 | Lab Operating | \$ | 5,000,000 | \$ | 5,000,000 | 75022 |
| | | Expenses | | | | | |
| 5HB0 | 440470 | Breast and Cervical | \$ | 1,000,000 | \$ | 0 | 75023 |
| | | Cancer Screening | | | | | |
| 6830 | 440633 | Employee Assistance | \$ | 1,100,000 | \$ | 1,100,000 | 75024 |
| | | Program | | | | | |
| 6980 | 440634 | Nurse Aide Training | \$ | 99,239 | \$ | 99,265 | 75025 |
| | | TOTAL GSF General Services | | | | | 75026 |
| | | Fund Group | \$ | 44,925,027 | \$ | 44,025,411 | 75027 |
| | | Federal Special Revenue Fund Group | | | | | 75028 |
| 3200 | 440601 | Maternal Child Health | \$ | 27,068,886 | \$ | 27,068,886 | 75029 |
| | | Block Grant | | | | | |
| 3870 | 440602 | Preventive Health | \$ | 7,826,659 | \$ | 7,826,659 | 75030 |
| | | Block Grant | | | | | |
| 3890 | 440604 | Women, Infants, and | \$ | 308,672,689 | \$ | 308,672,689 | 75031 |
| | | Children | | | | | |
| 3910 | 440606 | Medicaid/Medicare | \$ | 29,625,467 | \$ | 29,257,457 | 75032 |
| 3920 | 440618 | Federal Public Health | \$ | 137,976,988 | \$ | 137,976,988 | 75033 |
| | | Programs | | | | | |
| | | TOTAL FED Federal Special Revenue | | | | | 75034 |
| | | Fund Group | \$ | 511,170,689 | \$ | 510,802,679 | 75035 |
| | | State Special Revenue Fund Group | | | | | 75036 |
| 4700 | 440647 | Fee Supported | \$ | 24,503,065 | \$ | 24,513,973 | 75037 |
| | | Programs | | | | <u>24,263,973</u> | |
| 4710 | 440619 | Certificate of Need | \$ | 878,145 | \$ | 878,433 | 75038 |
| 4770 | 440627 | Medically Handicapped | \$ | 3,692,704 | \$ | 3,692,703 | 75039 |
| | | Children Audit | | | | | |
| 4D60 | 440608 | Genetics Services | \$ | 3,310,953 | \$ | 3,311,039 | 75040 |
| 4F90 | 440610 | Sickle Cell Disease | \$ | 1,032,754 | \$ | 1,032,824 | 75041 |

| | | | | | | | |
|---|--------|---|----|------------|----|--|-------|
| | | Control | | | | | |
| 4G00 | 440636 | Heirloom Birth Certificate | \$ | 5,000 | \$ | 5,000 | 75042 |
| 4G00 | 440637 | Birth Certificate Surcharge | \$ | 5,000 | \$ | 5,000 | 75043 |
| 4L30 | 440609 | Miscellaneous Expenses | \$ | 3,333,164 | \$ | 3,333,164 | 75044 |
| 4P40 | 440628 | Ohio Physician Loan Repayment | \$ | 476,870 | \$ | 476,870 | 75045 |
| 4V60 | 440641 | Save Our Sight | \$ | 2,255,760 | \$ | 2,255,789 | 75046 |
| 5B50 | 440616 | Quality, Monitoring, and Inspection | \$ | 878,638 | \$ | 878,997 | 75047 |
| 5C00 | 440615 | Alcohol Testing and Permit | \$ | 551,018 | \$ | 0 | 75048 |
| 5CN0 | 440645 | Choose Life | \$ | 75,000 | \$ | 75,000 | 75049 |
| 5D60 | 440620 | Second Chance Trust | \$ | 1,151,815 | \$ | 1,151,902 | 75050 |
| 5ED0 | 440651 | Smoke Free Indoor Air | \$ | 190,452 | \$ | 190,452 | 75051 |
| 5G40 | 440639 | Adoption Services | \$ | 20,000 | \$ | 20,000 | 75052 |
| 5L10 | 440623 | Nursing Facility Technical Assistance Program | \$ | 687,500 | \$ | 687,528 | 75053 |
| 5Z70 | 440624 | Ohio Dentist Loan Repayment | \$ | 140,000 | \$ | 140,000 | 75054 |
| 6100 | 440626 | Radiation Emergency Response | \$ | 930,525 | \$ | 930,576 | 75055 |
| 6660 | 440607 | Medically Handicapped Children - County Assessments | \$ | 19,738,286 | \$ | 19,739,617 | 75056 |
| TOTAL SSR State Special Revenue | | | | | | | 75057 |
| Fund Group | | | \$ | 63,856,649 | \$ | 63,318,867 <u>63,068,867</u> | 75058 |
| Holding Account Redistribution Fund Group | | | | | | | 75059 |
| R014 | 440631 | Vital Statistics | \$ | 44,986 | \$ | 44,986 | 75060 |

| | | | | | | |
|--|---------------------|----|-------------|----|------------------------|-------|
| R048 440625 | Refunds, Grants | \$ | 20,000 | \$ | 20,000 | 75061 |
| | Reconciliation, and | | | | | |
| | Audit Settlements | | | | | |
| TOTAL 090 Holding Account | | | | | | 75062 |
| Redistribution Fund Group | | \$ | 64,986 | \$ | 64,986 | 75063 |
| Tobacco Master Settlement Agreement Fund Group | | | | | | 75064 |
| 5BX0 440656 | Tobacco Use | \$ | 1,000,000 | \$ | 1,000,000 | 75065 |
| | Prevention | | | | | |
| TOTAL TSF Tobacco Master Settlement Agreement Fund Group | | \$ | 1,000,000 | \$ | 1,000,000 | 75066 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 702,038,677 | \$ | 705,517,491 | 75067 |
| | | | | | <u>704,916,763</u> | |

Sec. 307.10. INS DEPARTMENT OF INSURANCE

| | | | | | | |
|--|----------------------|----|------------|----|-----------------------|-------|
| | | | | | | 75069 |
| Federal Special Revenue Fund Group | | | | | | 75070 |
| 3EV0 820610 | Health Insurance | \$ | 1,000,000 | \$ | 1,000,000 | 75071 |
| | Premium Review | | | | | |
| 3EW0 820611 | Health Exchange | \$ | 1,000,000 | \$ | 1,000,000 | 75072 |
| | Planning | | | | | |
| 3U50 820602 | OSHIIP Operating | \$ | 2,270,726 | \$ | 2,270,725 | 75073 |
| | Grant | | | | | |
| TOTAL FED Federal Special Revenue Fund Group | | \$ | 4,270,726 | \$ | 4,270,725 | 75074 |
| State Special Revenue Fund Group | | | | | | 75076 |
| 5540 820601 | Operating Expenses - | \$ | 190,000 | \$ | 180,000 | 75077 |
| | OSHIIP | | | | | |
| 5540 820606 | Operating Expenses | \$ | 22,745,538 | \$ | 22,288,550 | 75078 |
| | | | | | <u>22,931,817</u> | |
| 5550 820605 | Examination | \$ | 9,065,684 | \$ | 8,934,065 | 75079 |
| | | | | | <u>8,184,065</u> | |
| TOTAL SSR State Special Revenue Fund Group | | \$ | 32,001,222 | \$ | 31,402,615 | 75080 |
| | | | | | | 75081 |

| | | | | |
|--|----|------------|--------------------------|-------|
| | | | <u>31,295,882</u> | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 36,271,948 | \$ 35,673,340 | 75082 |
| | | | <u>35,566,607</u> | |
| MARKET CONDUCT EXAMINATION | | | | 75083 |
| When conducting a market conduct examination of any insurer | | | | 75084 |
| doing business in this state, the Superintendent of Insurance may | | | | 75085 |
| assess the costs of the examination against the insurer. The | | | | 75086 |
| superintendent may enter into consent agreements to impose | | | | 75087 |
| administrative assessments or fines for conduct discovered that | | | | 75088 |
| may be violations of statutes or rules administered by the | | | | 75089 |
| superintendent. All costs, assessments, or fines collected shall | | | | 75090 |
| be deposited to the credit of the Department of Insurance | | | | 75091 |
| Operating Fund (Fund 5540). | | | | 75092 |
| EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES | | | | 75093 |
| The Director of Budget and Management, at the request of the | | | | 75094 |
| Superintendent of Insurance, may transfer funds from the | | | | 75095 |
| Department of Insurance Operating Fund (Fund 5540), established by | | | | 75096 |
| section 3901.021 of the Revised Code, to the Superintendent's | | | | 75097 |
| Examination Fund (Fund 5550), established by section 3901.071 of | | | | 75098 |
| the Revised Code, only for expenses incurred in examining domestic | | | | 75099 |
| fraternal benefit societies as required by section 3921.28 of the | | | | 75100 |
| Revised Code. | | | | 75101 |
| TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND | | | | 75102 |
| Not later than the thirty-first day of July each fiscal year, | | | | 75103 |
| the Director of Budget and Management shall transfer \$5,000,000 | | | | 75104 |
| from the Department of Insurance Operating Fund (Fund 5540) to the | | | | 75105 |
| General Revenue Fund. | | | | 75106 |
| Sec. 309.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES | | | | 75107 |
| General Revenue Fund | | | | 75108 |
| GRF 600321 <u>Program</u> Support | | | | 75109 |

| | | | | | |
|------------|--|----|-------------|----|-----------------------------|
| | <u>Services</u> | | | | |
| | State | \$ | 34,801,760 | \$ | 31,932,117 75110 |
| | | | | | <u>31,612,796</u> |
| | Federal | \$ | 9,322,222 | \$ | 9,207,441 75111 |
| | | | | | <u>9,115,366</u> |
| | <u>Program Support</u> | \$ | 44,123,982 | \$ | 41,139,558 75112 |
| | <u>Services Total</u> | | | | <u>40,728,162</u> |
| GRF 600410 | <u>TANF State/Maintenance of Effort</u> | \$ | 151,386,934 | \$ | 151,386,934 75113 |
| GRF 600413 | <u>Child Care Match State/Maintenance of Effort</u> | \$ | 84,732,730 | \$ | 84,732,730 75114 |
| GRF 600416 | <u>Computer Information Technology Projects</u> | | | | 75115 |
| | State | \$ | 67,955,340 | \$ | 69,263,506 75116 |
| | | | | | <u>68,570,871</u> |
| | Federal | \$ | 13,105,167 | \$ | 12,937,222 75117 |
| | | | | | <u>12,807,850</u> |
| | <u>Computer Information Technology Projects Total</u> | \$ | 81,060,507 | \$ | 82,200,728 75118 |
| | | | | | <u>81,378,721</u> |
| GRF 600417 | <u>Medicaid Provider Audits</u> | \$ | 1,312,992 | \$ | 1,312,992 75119 |
| | | | | | <u>1,299,862</u> |
| GRF 600420 | <u>Child Support Administration Programs</u> | \$ | 6,163,534 | \$ | 6,065,588 75120 |
| | | | | | <u>6,004,932</u> |
| GRF 600421 | <u>Office of Family Stability Assistance Programs</u> | \$ | 3,768,929 | \$ | 3,757,493 75121 |
| | | | | | <u>3,719,918</u> |
| GRF 600423 | <u>Office of Children and Families and Children Programs</u> | \$ | 5,123,406 | \$ | 4,978,756 75122 |
| GRF 600425 | <u>Office of Ohio Health Plans Care Programs</u> | | | | 75123 |

| | | | | | | |
|------------|----------------------------------|----|-----------------------|----|---------------------------|-------|
| | State | \$ | 13,149,582 | \$ | 15,740,987 | 75124 |
| | | | | | <u>15,583,577</u> | |
| | Federal | \$ | 12,556,921 | \$ | 12,286,234 | 75125 |
| | | | | | <u>12,163,372</u> | |
| | Office of Ohio Health | \$ | 25,706,503 | \$ | 28,027,221 | 75126 |
| | Plans Care Programs | | | | <u>27,746,949</u> | |
| | Total | | | | | |
| GRF 600502 | Administration Child | \$ | 23,814,103 | \$ | 23,814,103 | 75127 |
| | <u>Support</u> - Local | | | | | |
| GRF 600511 | Disability Financial | \$ | 26,599,666 | \$ | 27,108,734 | 75128 |
| | Assistance | | | | | |
| GRF 600521 | Entitlement | \$ | 72,200,721 | \$ | 72,200,721 | 75129 |
| | Administration Family | | | | | |
| | <u>Assistance</u> - Local | | | | | |
| GRF 600523 | <u>Family and Children and</u> | \$ | 53,605,323 | \$ | 53,105,323 | 75130 |
| | Families Services | | <u>52,605,323</u> | | <u>54,105,323</u> | |
| GRF 600525 | Health Care/Medicaid | | | | | 75131 |
| | State | \$ | 4,313,761,372 | \$ | 4,689,051,017 | 75132 |
| | | | | | <u>4,689,701,017</u> | |
| | Federal | \$ | 7,530,008,024 | \$ | 8,429,762,527 | 75133 |
| | | | | | <u>8,430,897,261</u> | |
| | Health Care Total | \$ | 11,843,769,396 | \$ | 13,118,813,544 | 75134 |
| | | | | | <u>13,120,598,278</u> | |
| GRF 600526 | Medicare Part D | \$ | 277,996,490 | \$ | 296,964,743 | 75135 |
| GRF 600528 | Adoption Services | | | | | 75136 |
| | State | \$ | 29,257,932 | \$ | 29,257,932 | 75137 |
| | Federal | \$ | 41,085,169 | \$ | 41,085,169 | 75138 |
| | Adoption Services Total | \$ | 70,343,101 | \$ | 70,343,101 | 75139 |
| GRF 600533 | Child, Family, and | \$ | 13,500,000 | \$ | 13,500,000 | 75140 |
| | Adult Community & | | | | | |
| | Protective Services | | | | | |
| GRF 600534 | Adult Protective | \$ | 366,003 | \$ | 366,003 | 75141 |
| | Services | | | | | |

| | | | | |
|--------------------------------|--|------------------------------|--|-------|
| GRF 600535 | Early Care and Education | \$ 123,596,474 | \$ 123,596,474 | 75142 |
| GRF 600537 | Children's Hospital | \$ 6,000,000 | \$ 6,000,000 | 75143 |
| GRF 600540 | Second Harvest Food Banks | \$ 4,000,000 | \$ 4,000,000 | 75144 |
| GRF 600541 | Kinship Permanency Incentive Program | \$ 2,500,000 | \$ 3,500,000 | 75145 |
| TOTAL GRF General Revenue Fund | | | | 75146 |
| | State | \$ 5,315,593,291 | \$ 5,711,636,153 | 75147 |
| | | <u>5,314,593,291</u> | <u>5,712,005,426</u> | |
| | Federal | \$ 7,606,077,503 | \$ 8,505,278,593 | 75148 |
| | | | <u>8,506,069,018</u> | |
| | GRF Total | \$ 12,921,670,794 | \$ 14,216,914,746 | 75149 |
| | | <u>12,920,670,794</u> | <u>14,218,074,444</u> | |
| General Services Fund Group | | | | 75150 |
| 4A80 600658 | Public Assistance Activities | \$ 34,000,000 | \$ 34,000,000 | 75151 |
| 5C90 600671 | Medicaid Program Support | \$ 85,800,878 | \$ 82,839,266 0 | 75152 |
| 5DL0 600639 | Medicaid Revenue and Collections <u>Health Care/Medicaid Support - Recoveries</u> | \$ 89,256,974 | \$ 84,156,974 <u>166,996,240</u> | 75153 |
| 5DM0 600633 | Administration & Operating | \$ 20,392,173 | \$ 19,858,928 <u>19,660,339</u> | 75154 |
| 5FX0 600638 | Medicaid Payment Withholding | \$ 5,000,000 | \$ 6,000,000 | 75155 |
| 5HL0 600602 | State and County Shared services | \$ 3,020,000 | \$ 3,020,000 | 75156 |
| 5P50 600692 | Prescription Drug Rebate <u>State Health Care/Medicaid Support - Drug Rebates</u> | \$ 220,600,000 | \$ 242,600,000 | 75157 |

| | | | | | | | |
|-------------|---------------|------------------------------------|-----------|-------------|-----------|------------------------|-------|
| 6130 | 600645 | Training Activities | \$ | 500,000 | \$ | 500,000 | 75158 |
| | | TOTAL GSF General Services | | | | | 75159 |
| | | Fund Group | \$ | 458,570,025 | \$ | 472,975,168 | 75160 |
| | | | | | | <u>472,776,579</u> | |
| | | Federal Special Revenue Fund Group | | | | | 75161 |
| 3270 | 600606 | Child Welfare | \$ | 29,769,865 | \$ | 29,769,866 | 75162 |
| <u>3310</u> | <u>600615</u> | <u>Veterans Programs</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>8,000,000</u> | 75163 |
| <u>3310</u> | <u>600624</u> | <u>Employment Services</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>33,943,023</u> | 75164 |
| | | <u>Programs</u> | | | | | |
| 3310 | 600686 | Federal Operating | \$ | 49,128,140 | \$ | 48,203,023 | 75165 |
| | | <u>Workforce Programs</u> | | | | <u>6,260,000</u> | |
| 3840 | 600610 | Food Assistance and | \$ | 180,381,394 | \$ | 180,381,394 | 75166 |
| | | State Administration | | | | | |
| | | <u>Programs</u> | | | | | |
| 3850 | 600614 | Refugee Services | \$ | 11,582,440 | \$ | 12,564,952 | 75167 |
| 3950 | 600616 | Special | \$ | 2,259,264 | \$ | 2,259,264 | 75168 |
| | | Activities/Child and | | | | | |
| | | Family Services | | | | | |
| | | <u>Federal Discretionary</u> | | | | | |
| | | <u>Grants</u> | | | | | |
| 3960 | 600620 | Social Services Block | \$ | 64,999,999 | \$ | 64,999,998 | 75169 |
| | | Grant | | | | | |
| 3970 | 600626 | Child Support = | \$ | 255,812,837 | \$ | 255,813,528 | 75170 |
| | | <u>Federal</u> | | | | | |
| 3980 | 600627 | Adoption Maintenance/ | \$ | 352,183,862 | \$ | 352,184,253 | 75171 |
| | | Administration Program | | | | <u>174,178,779</u> | |
| | | <u>- Federal</u> | | | | | |
| 3A20 | 600641 | Emergency Food | \$ | 5,000,000 | \$ | 5,000,000 | 75172 |
| | | Distribution | | | | | |
| 3AW0 | 600675 | Faith Based | \$ | 544,140 | \$ | 544,140 | 75173 |
| | | Initiatives | | | | | |
| 3D30 | 600648 | Children's Trust Fund | \$ | 2,040,524 | \$ | 2,040,524 | 75174 |
| | | Federal | | | | | |

| | | | | | |
|-----------------------------------|--------|--|------------------|---|-------|
| 3ER0 | 600603 | Health Information Technology | \$ 411,661,286 | \$ 416,395,286 | 75175 |
| 3F00 | 600623 | Health Care Federal | \$ 2,637,061,505 | \$ 2,720,724,869 | 75176 |
| 3F00 | 600650 | Hospital Care Assurance Match - <u>Federal</u> | \$ 372,784,046 | \$ 380,645,627 | 75177 |
| 3FA0 | 600680 | Ohio Health Care Grants - <u>Federal</u> | \$ 9,405,000 | \$ 20,000,000 | 75178 |
| 3G50 | 600655 | Interagency Reimbursement | \$ 1,621,305,787 | \$ 1,380,391,478 | 75179 |
| 3H70 | 600617 | Child Care Federal | \$ 208,290,036 | \$ 204,813,731 | 75180 |
| 3N00 | 600628 | IV-E Foster Care Maintenance <u>Program</u> - <u>Federal</u> | \$ 133,963,142 | \$ 133,963,142 <u>311,968,616</u> | 75181 |
| 3S50 | 600622 | Child Support Projects | \$ 534,050 | \$ 534,050 | 75182 |
| 3V00 | 600688 | Workforce Investment Act <u>Programs</u> | \$ 176,496,250 | \$ 172,805,562 | 75183 |
| 3V40 | 600678 | Federal Unemployment Programs | \$ 188,680,096 | \$ 186,723,415 | 75184 |
| 3V40 | 600679 | Unemployment Compensation <u>UC</u> Review Commission - Federal | \$ 4,166,988 | \$ 4,068,758 | 75185 |
| 3V60 | 600689 | TANF Block Grant | \$ 727,968,260 | \$ 727,968,260 | 75186 |
| TOTAL FED Federal Special Revenue | | | | | 75187 |
| Fund Group | | | \$ 7,446,018,911 | \$ 7,302,795,120 | 75188 |
| State Special Revenue Fund Group | | | | | 75189 |
| 1980 | 600647 | Children's Trust Fund | \$ 5,873,637 | \$ 5,873,848 | 75190 |
| 4A90 | 600607 | Unemployment Compensation Administration Fund | \$ 21,924,998 | \$ 21,424,998 | 75191 |
| 4A90 | 600694 | Unemployment Compensation <u>UC</u> Review Commission - <u>SAF</u> | \$ 2,173,167 | \$ 2,117,031 | 75192 |

| | | | | | | | |
|------|--------|---|----|-------------|----|-------------|-------|
| 4E30 | 600605 | Nursing Home <u>Assessments Resident</u> <u>Protection Fund</u> | \$ | 2,878,320 | \$ | 2,878,319 | 75193 |
| 4E70 | 600604 | Child and Family and <u>Children Services</u> Collections | \$ | 400,000 | \$ | 400,000 | 75194 |
| 4F10 | 600609 | <u>Family and Children</u> and Family Services Activities | \$ | 683,359 | \$ | 683,549 | 75195 |
| 4K10 | 600621 | ICF/MR Bed Assessments <u>DDD Support -</u> <u>Franchise Fee</u> | \$ | 41,405,596 | \$ | 44,372,874 | 75196 |
| 4Z10 | 600625 | HealthCare Compliance | \$ | 11,551,076 | \$ | 14,582,000 | 75197 |
| 5AJ0 | 600631 | Money Follows the Person | \$ | 5,483,080 | \$ | 4,733,080 | 75198 |
| 5DB0 | 600637 | Military Injury Grants <u>Relief Subsidies</u> | \$ | 2,000,000 | \$ | 2,000,000 | 75199 |
| 5DP0 | 600634 | Adoption Assistance Loan | \$ | 500,000 | \$ | 500,000 | 75200 |
| 5ES0 | 600630 | Food <u>Bank</u> Assistance | \$ | 500,000 | \$ | 500,000 | 75201 |
| 5GF0 | 600656 | Medicaid Health <u>Care/Medicaid Support</u> - Hospital/UPL | \$ | 436,000,000 | \$ | 436,000,000 | 75202 |
| 5KC0 | 600682 | Health Care Special <u>Activities Grants -</u> <u>State</u> | \$ | 10,000,000 | \$ | 10,000,000 | 75203 |
| 5KU0 | 600611 | <u>Unemployment</u> <u>Compensation Support -</u> <u>Other Sources</u> | \$ | 2,000,000 | \$ | 4,000,000 | 75204 |
| 5R20 | 600608 | Medicaid Nursing <u>Facilities Long-Term</u> <u>Care Support</u> | \$ | 402,489,308 | \$ | 407,100,746 | 75205 |
| 5S30 | 600629 | MR/DD Medicaid | \$ | 9,252,738 | \$ | 9,147,791 | 75206 |

| | | | | | | |
|---|--------|---------------------------------------|------------------------------|------------------------------|--------------------|-------|
| | | <u>Administration Health</u> | | | | |
| | | <u>Care Program and</u> | | | | |
| | | <u>Oversight DDD Support</u> | | | | |
| 5U30 | 600654 | Health Care Services | \$ 24,400,000 | \$ 24,400,000 | | 75207 |
| | | <u>Administration Program</u> | | | <u>24,156,000</u> | |
| | | <u>Support</u> | | | | |
| 5U60 | 600663 | Children <u>Family</u> and | \$ 4,000,000 | \$ 4,000,000 | | 75208 |
| | | <u>Family Children</u> | | | | |
| | | Support | | | | |
| 6510 | 600649 | Hospital Care | \$ 212,526,123 | \$ 217,008,050 | | 75209 |
| | | Assurance Program Fund | | | | |
| TOTAL SSR State Special Revenue | | | | | | 75210 |
| Fund Group | | | \$ 1,194,041,402 | \$ 1,207,722,286 | | 75211 |
| | | | <u>1,196,041,402</u> | <u>1,211,478,286</u> | | |
| Agency Fund Group | | | | | | 75212 |
| 1920 | 600646 | <u>Child</u> Support | \$ 130,000,000 | \$ 130,000,000 | | 75213 |
| | | Intercept - Federal | | | <u>129,250,000</u> | |
| 5830 | 600642 | <u>Child</u> Support | \$ 16,000,000 | \$ 16,000,000 | | 75214 |
| | | Intercept - State | | | <u>14,000,000</u> | |
| 5B60 | 600601 | Food Assistance | \$ 2,000,000 | \$ 2,000,000 | | 75215 |
| | | Intercept | | | <u>1,000,000</u> | |
| TOTAL AGY Agency Fund Group | | | \$ 148,000,000 | \$ 148,000,000 | | 75216 |
| | | | | | <u>144,250,000</u> | |
| Holding Account Redistribution Fund Group | | | | | | 75217 |
| R012 | 600643 | Refunds and Audit | \$ 2,200,000 | \$ 2,200,000 | | 75218 |
| | | Settlements | | | | |
| R013 | 600644 | Forgery Collections | \$ 10,000 | \$ 10,000 | | 75219 |
| TOTAL 090 Holding Account | | | \$ 2,210,000 | \$ 2,210,000 | | 75220 |
| Redistribution Fund Group | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ 22,170,511,132 | \$ 23,350,617,320 | | 75221 |
| | | | <u>22,171,511,132</u> | <u>23,351,584,429</u> | | |
| Sec. 309.30.10. HEALTH CARE/MEDICAID | | | | | | 75223 |

The foregoing appropriation item 600525, Health Care/Medicaid, shall not be limited by section 131.33 of the Revised Code.

HEALTH CARE/MEDICAID ENDING BALANCE

Thirty million dollars of the unexpended and unencumbered portion of appropriation item 600525, Health Care/Medicaid, at the end of fiscal year 2012 is hereby reappropriated to the Department of Job and Family Services for payments to nursing facilities for fiscal year 2013 in accordance with the section of this act titled "FISCAL YEAR 2013 QUALITY BONUS PAYMENTS TO NURSING FACILITIES."

Sec. 309.30.30. REDUCTION IN MEDICAID PAYMENT RATES

(A) As used in this section, "charge high trim point" means a measure, excluding the measure established by paragraph (A)(6) of rule 5101:3-2-07.9 of the Administrative Code, used to determine whether a claim for a hospital inpatient service qualifies for a cost outlier payment under the Medicaid program.

(B) For fiscal year 2012 and fiscal year 2013, the Director of Job and Family Services shall implement purchasing strategies and rate reductions for hospital and other Medicaid-covered services, as determined by the Director, that result in payment rates for those services being at least two per cent less than the respective payment rates for fiscal year 2011. In implementing the purchasing strategies and rate reductions, the Director shall do the following:

(1) Notwithstanding 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," modernize hospital inpatient and outpatient reimbursement methodologies by doing the following:

(a) Modifying the inpatient hospital capital reimbursement

methodology; 75254

(b) Establishing new diagnosis-related groups in a 75255
cost-neutral manner; 75256

(c) For hospital discharges that occur during the period 75257
beginning October 1, 2011, and ending January 1, 2012, modifying 75258
charge high trim points, as in effect on January 1, 2011, by a 75259
factor of 13.6%; 75260

(d) For hospital discharges that occur during the period 75261
beginning January 1, 2012, and ending on the effective date of the 75262
first of the new diagnosis-related groups established under 75263
division (B)(1)(b) of this section, modifying charge high trim 75264
points, as in effect on October 1, 2011, by a factor of 9.72%; 75265

(e) Implementing other changes the Director considers 75266
appropriate. 75267

(2) Establish selective contracting and prior authorization 75268
requirements for types of medical assistance the Director 75269
identifies. 75270

(C) A managed care organization under contract with the 75271
Department of Job and Family Services pursuant to section 5111.17 75272
of the Revised Code shall use a new diagnosis-related group for a 75273
hospital inpatient service established under division (B)(1)(b) of 75274
this section for purposes of making payments under the Medicaid 75275
care management system for hospital inpatient services that are 75276
provided during the period beginning on the later of the effective 75277
date of the new diagnosis-related group or the effective date of 75278
this amendment and ending July 1, 2013. 75279

(D) The Director shall adopt rules under ~~section~~ sections 75280
5111.02, 5111.17, and 5111.85 of the Revised Code as necessary to 75281
implement this section. The rules adopted to implement divisions 75282
(B)(1)(a), (b), and (e) of this section shall include quality 75283
factors and quality-based incentive payments. 75284

~~(D)~~(E) This section does not apply to nursing facility and 75285
intermediate care facility for the mentally retarded services 75286
provided under the Medicaid program. 75287

Sec. 309.30.33. HOSPITAL INPATIENT AND OUTPATIENT 75288
SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE 75289
HOSPITAL INCENTIVE PAYMENT PROGRAM 75290

(A) As used in this section: 75291

(1) "Hospital" has the same meaning as in section 5112.40 of 75292
the Revised Code. 75293

(2) "Hospital Assessment Fund" means the fund created under 75294
section 5112.45 of the Revised Code. 75295

(3) "Medicaid managed care organization" means an entity 75296
under contract pursuant to section 5111.17 of the Revised Code to 75297
provide or arrange services for Medicaid recipients who are 75298
required or permitted to participate in the Medicaid care 75299
management system. 75300

(B) The Department of Job and Family Services shall submit to 75301
the United States Secretary of Health and Human Services a 75302
Medicaid state plan amendment to do both of the following: 75303

(1) Continue the Hospital Inpatient and Outpatient 75304
Supplemental Upper Payment Limit Program that was established 75305
pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th 75306
General Assembly, with any modifications necessary to implement 75307
the program as described under division (D) of this section; 75308

(2) Create the Medicaid Managed Care Hospital Incentive 75309
Payment Program, as described under division (E) of this section. 75310

(C) Of the amounts deposited into the Hospital Assessment 75311
Fund in fiscal year 2012 and fiscal year 2013: 75312

(1) Up to \$432,432,725 (state and federal) in fiscal year 75313

2012 and up to \$415,162,388 (state and federal) in fiscal year 75314
2013 shall be used for the Hospital Inpatient and Outpatient 75315
Supplemental Upper Payment Limit Program; 75316

(2) Up to \$162,000,000 (state and federal) in each fiscal 75317
year shall be used for the Medicaid Managed Care Hospital 75318
Incentive Payment Program; 75319

(3) Up to \$176,021,111 (state and federal) in fiscal year 75320
2012 and up to \$195,158,394 (state and federal) in fiscal year 75321
2013 shall be used for the program authorized by the section of 75322
~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled 75323
"CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND 75324
OUTPATIENT SERVICES." 75325

(D)(1) If the Medicaid state plan amendment submitted under 75326
division (B)(1) of this section is approved, the Department shall 75327
implement the Hospital Inpatient and Outpatient Supplemental Upper 75328
Payment Limit Program during fiscal year 2012 and fiscal year 75329
2013. Under the Program, subject to division (D)(2) of this 75330
section, supplemental Medicaid payments shall be made to hospitals 75331
for Medicaid-covered inpatient and outpatient services. The 75332
Department shall make the payments through amounts that are made 75333
available for the Program under division (C) of this section and 75334
any federal financial participation available for the Program. 75335

(2) The Department shall take all actions necessary to cease 75336
implementation of the Program if the United States Secretary 75337
determines that the assessment imposed under section 5112.41 of 75338
the Revised Code is an impermissible healthcare-related tax under 75339
section 1903(w) of the "Social Security Act," 105 Stat. 1793 75340
(1991), 42 U.S.C. 1396b(w), as amended. 75341

(E)(1) If the Medicaid state plan amendment submitted under 75342
division (B)(2) of this section is approved, the Department shall 75343
implement the Medicaid Managed Care Hospital Incentive Payment 75344

Program. The purpose of the Program is to increase access to 75345
hospital services for Medicaid recipients who are enrolled in 75346
Medicaid managed care organizations. 75347

Under the Program, subject to division (E)(3) of this 75348
section, funds shall be provided to Medicaid managed care 75349
organizations, which shall use the funds to increase payments to 75350
hospitals for providing services to Medicaid recipients who are 75351
enrolled in the organizations. The Department shall provide the 75352
funds through amounts that are made available for the Program 75353
under division (C) of this section and any federal financial 75354
participation available for the Program. 75355

(2) Not later than July 1, 2012, the Department shall select 75356
an actuary to conduct a study of the contracted reimbursement 75357
rates between Medicaid managed care organizations and hospitals. 75358
The actuary shall determine if a reduction in the capitation rates 75359
paid to Medicaid managed care organizations in fiscal year 2013 is 75360
appropriate as a result of the contracted reimbursement rates 75361
between the organizations and hospitals. The actuary shall notify 75362
the Department of its determination. 75363

If the actuary determines that a reduction in the capitation 75364
rates paid to Medicaid managed care organizations in fiscal year 75365
2013 will not achieve \$22 million in state savings in fiscal year 75366
2013, the state shall receive the difference between what the 75367
actuary determines the state will save and \$22 million. The 75368
Department, in consultation with the Ohio Association of Health 75369
Plans and the Ohio Hospital Association, shall establish a 75370
methodology under which the difference is paid equally by Medicaid 75371
managed care organizations and hospitals in this state. 75372

Notwithstanding anything to the contrary specified in 75373
division (E)(3)(b) or (c) of this section, the Medicaid managed 75374
care organizations and hospitals shall pay the amounts determined 75375
under the methodology, unless the Department waives the 75376

requirement to make the payments. The requirement may be waived if 75377
spending for the Medicaid program in fiscal year 2013 is less than 75378
the amount that is budgeted for that fiscal year. If payments are 75379
made, the amount received by the Department shall be deposited 75380
into the state treasury to the credit of the Health Care 75381
Compliance Fund created under section ~~5111.171~~ 5111.946 of the 75382
Revised Code. 75383

(3)(a) The Department shall not provide funds to Medicaid 75384
managed care organizations under the Program unless an actuary 75385
selected by the Department certifies that the Program would not 75386
violate the actuarial soundness of the capitation rates paid to 75387
Medicaid managed care organizations. 75388

(b) The Department shall not implement the Program in a 75389
manner that causes a hospital to receive less money from the 75390
Hospital Assessment Fund than the hospital would have received if 75391
the Program were not implemented. 75392

(c) The Department shall not implement the Program in a 75393
manner that causes a Medicaid managed care organization to receive 75394
a lower capitation payment rate solely because funds are made 75395
available to the organization under the Program. 75396

(d) The Department shall take all necessary actions to cease 75397
implementation of the Program if the United States Secretary 75398
determines that the assessment imposed under section 5112.41 of 75399
the Revised Code is an impermissible healthcare-related tax under 75400
section 1903(w) of the "Social Security Act," 105 Stat. 1793 75401
(1991), 42 U.S.C. 1396b(w), as amended. 75402

(F) The Director of Budget and Management may authorize 75403
additional expenditures from appropriation item 600623, Health 75404
Care Federal, appropriation item 600525, Health Care/Medicaid, and 75405
appropriation item 600656, Medicaid-Hospital, in order to 75406
implement the programs authorized by this section and to implement 75407

the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General 75408
Assembly titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL 75409
INPATIENT AND OUTPATIENT SERVICES." Any amounts authorized are 75410
hereby appropriated. 75411

(G) Nothing in this section reduces payments to children's 75412
hospitals authorized under the section of ~~this act~~ Am. Sub. H.B. 75413
153 of the 129th General Assembly titled "CHILDREN'S HOSPITALS 75414
SUPPLEMENTAL FUNDING." 75415

Sec. 309.30.53. MEDICAID MANAGED CARE EXEMPTIONS 75416

(A) As used in this section, "disabled individual" means any 75417
individual receiving services through the program for medically 75418
handicapped children established under section 3701.023 of the 75419
Revised Code who has one or more of the following conditions: 75420

(1) Cystic fibrosis; 75421

(2) Hemophilia; 75422

(3) Cancer. 75423

(B) Notwithstanding section 5111.16 of the Revised Code, as 75424
amended by ~~this act~~ Am. Sub. H.B. 153 of the 129th General 75425
Assembly, the Department of Job and Family Services shall not 75426
include in the care management system established under that 75427
section ~~in either fiscal year 2012 or fiscal year 2013 any~~ 75428
individual receiving services through the program for medically 75429
handicapped children established under section 3701.023 of the 75430
Revised Code who has one or more of the following conditions and 75431
who was not receiving services through the care management system 75432
immediately before the effective date of this section: 75433

~~(1) Cystic fibrosis;~~ 75434

~~(2) Hemophilia;~~ 75435

~~(3) Cancer~~ any disabled individual who was not receiving 75436

services through the care management system immediately before 75437
June 30, 2011, until the later of the following: 75438

(1) January 1, 2014; 75439

(2) One year after the date that the Department first 75440
designates any individual who receives Medicaid on the basis of 75441
being aged, blind, or disabled who is under twenty-one years of 75442
age as an individual who is permitted or required to participate 75443
in the care management system. 75444

Sec. 309.35.73. HEALTHCARE COMPLIANCE APPROPRIATION 75445

Notwithstanding the provisions of section ~~5111.171~~ 5111.946 75446
of the Revised Code specifying the uses of the ~~HealthCare~~ Health 75447
Care Compliance Fund, appropriations in appropriation item 600625, 75448
HealthCare Compliance, may be used for expenses incurred in 75449
implementation or operation of Health Home programs, contracts for 75450
consultants regarding Medicaid, and for the creation, 75451
modification, or replacement of any federally funded Medicaid 75452
healthcare systems in fiscal year 2012 and fiscal year 2013. 75453

Sec. 315.10. JSC THE JUDICIARY/SUPREME COURT 75454

General Revenue Fund 75455

| | | | | | | | |
|-----|--------|----------------------|----|------------------------|----|------------------------|-------|
| GRF | 005321 | Operating Expenses - | \$ | 133,704,620 | \$ | 132,565,410 | 75456 |
| | | Judiciary/Supreme | | <u>132,347,507</u> | | <u>133,922,523</u> | |
| | | Court | | | | | |

| | | | | | | | |
|-----|--------|-----------------------|----|---------|----|---------|-------|
| GRF | 005406 | Law-Related Education | \$ | 236,172 | \$ | 236,172 | 75457 |
|-----|--------|-----------------------|----|---------|----|---------|-------|

| | | | | | | | |
|-----|--------|-----------------------|----|-----------|----|-----------|-------|
| GRF | 005409 | Ohio Courts | \$ | 2,150,000 | \$ | 2,150,000 | 75458 |
| | | Technology Initiative | | | | | |

| | | | | | | |
|-----------|----------------------|----|------------------------|----|------------------------|-------|
| TOTAL GRF | General Revenue Fund | \$ | 136,090,792 | \$ | 134,951,582 | 75459 |
| | | | <u>134,733,679</u> | | <u>136,308,695</u> | |

General Services Fund Group 75460

| | | | | | | | |
|------|--------|---------------------|----|---------|----|---------|-------|
| 6720 | 005601 | Continuing Judicial | \$ | 172,142 | \$ | 169,420 | 75461 |
|------|--------|---------------------|----|---------|----|---------|-------|

Education

| | | | | | |
|------------------------------------|----|------------------------|----|------------------------|-------|
| TOTAL GSF General Services Fund | \$ | 172,142 | \$ | 169,420 | 75462 |
| Group | | | | | |
| Federal Special Revenue Fund Group | | | | | 75463 |
| 3J00 005603 Federal Grants | \$ | 1,653,317 | \$ | 1,605,717 | 75464 |
| TOTAL FED Federal Special Revenue | \$ | 1,653,317 | \$ | 1,605,717 | 75465 |
| Fund Group | | | | | |
| State Special Revenue Fund Group | | | | | 75466 |
| 4C80 005605 Attorney Services | \$ | 3,718,328 | \$ | 3,695,192 | 75467 |
| 5HT0 005617 Court Interpreter | \$ | 39,000 | \$ | 39,000 | 75468 |
| Certification | | | | | |
| 5T80 005609 Grants and Awards | \$ | 50,000 | \$ | 50,000 | 75469 |
| 6A80 005606 Supreme Court | \$ | 1,223,340 | \$ | 1,205,056 | 75470 |
| Admissions | | | | | |
| TOTAL SSR State Special Revenue | \$ | 5,030,668 | \$ | 4,989,248 | 75471 |
| Fund Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 142,946,919 | \$ | 141,715,967 | 75472 |
| | | <u>141,589,806</u> | | <u>143,073,080</u> | |

OPERATING EXPENSES - JUDICIARY/SUPREME COURT 75473

Of the foregoing appropriation item 005321, Operating 75474
Expenses - Judiciary/Supreme Court, up to \$206,770 in each fiscal 75475
year may be used to support the functions of the State Criminal 75476
Sentencing Council. 75477

LAW-RELATED EDUCATION 75478

The foregoing appropriation item 005406, Law-Related 75479
Education, shall be distributed directly to the Ohio Center for 75480
Law-Related Education for the purposes of providing continuing 75481
citizenship education activities to primary and secondary 75482
students, expanding delinquency prevention programs, increasing 75483
activities for at-risk youth, and accessing additional public and 75484
private money for new programs. 75485

OHIO COURTS TECHNOLOGY INITIATIVE 75486

The foregoing appropriation item 005409, Ohio Courts 75487
Technology Initiative, shall be used to fund an initiative by the 75488
Supreme Court to facilitate the exchange of information and 75489
warehousing of data by and between Ohio courts and other justice 75490
system partners through the creation of an Ohio Courts Network, 75491
the delivery of technology services to courts throughout the 75492
state, including the provision of hardware, software, and the 75493
development and implementation of educational and training 75494
programs for judges and court personnel, and operation of the 75495
Commission on Technology and the Courts by the Supreme Court for 75496
the promulgation of statewide rules, policies, and uniform 75497
standards, and to aid in the orderly adoption and comprehensive 75498
use of technology in Ohio courts. 75499

CONTINUING JUDICIAL EDUCATION 75500

The Continuing Judicial Education Fund (Fund 6720) shall 75501
consist of fees paid by judges and court personnel for attending 75502
continuing education courses and other gifts and grants received 75503
for the purpose of continuing judicial education. The foregoing 75504
appropriation item 005601, Continuing Judicial Education, shall be 75505
used to pay expenses for continuing education courses for judges 75506
and court personnel. If it is determined by the Administrative 75507
Director of the Supreme Court that additional appropriations are 75508
necessary, the amounts are hereby appropriated. 75509

No money in Fund 6720 shall be transferred to any other fund 75510
by the Director of Budget and Management or the Controlling Board. 75511
Interest earned on money in Fund 6720 shall be credited to the 75512
fund. 75513

FEDERAL GRANTS 75514

The Federal Grants Fund (Fund 3J00) shall consist of grants 75515
and other moneys awarded to the Supreme Court (The Judiciary) by 75516

the United States Government or other entities that receive the 75517
moneys directly from the United States Government and distribute 75518
those moneys to the Supreme Court (The Judiciary). The foregoing 75519
appropriation item 005603, Federal Grants, shall be used in a 75520
manner consistent with the purpose of the grant or award. If it is 75521
determined by the Administrative Director of the Supreme Court 75522
that additional appropriations are necessary, the amounts are 75523
hereby appropriated. 75524

No money in Fund 3J00 shall be transferred to any other fund 75525
by the Director of Budget and Management or the Controlling Board. 75526
However, interest earned on money in Fund 3J00 shall be credited 75527
or transferred to the General Revenue Fund. 75528

ATTORNEY SERVICES 75529

The Attorney Services Fund (Fund 4C80), formerly known as the 75530
Attorney Registration Fund, shall consist of money received by the 75531
Supreme Court (The Judiciary) pursuant to the Rules for the 75532
Government of the Bar of Ohio. In addition to funding other 75533
activities considered appropriate by the Supreme Court, the 75534
foregoing appropriation item 005605, Attorney Services, may be 75535
used to compensate employees and to fund appropriate activities of 75536
the following offices established by the Supreme Court: the Office 75537
of Disciplinary Counsel, the Board of Commissioners on Grievances 75538
and Discipline, the Clients' Security Fund, and the Attorney 75539
Services Division. If it is determined by the Administrative 75540
Director of the Supreme Court that additional appropriations are 75541
necessary, the amounts are hereby appropriated. 75542

No money in Fund 4C80 shall be transferred to any other fund 75543
by the Director of Budget and Management or the Controlling Board. 75544
Interest earned on money in Fund 4C80 shall be credited to the 75545
fund. 75546

COURT INTERPRETER CERTIFICATION 75547

The Court Interpreter Certification Fund (Fund 5HT0) shall 75548
consist of money received by the Supreme Court (The Judiciary) 75549
pursuant to Rules 80 through 87 of the Rules of Superintendence 75550
for the Courts of Ohio. The foregoing appropriation item 005617, 75551
Court Interpreter Certification, shall be used to provide 75552
training, to provide the written examination, and to pay language 75553
experts to rate, or grade, the oral examinations of those applying 75554
to become certified court interpreters. If it is determined by the 75555
Administrative Director that additional appropriations are 75556
necessary, the amounts are hereby appropriated. 75557

No money in Fund 5HT0 shall be transferred to any other fund 75558
by the Director of Budget and Management or the Controlling Board. 75559
Interest earned on money in Fund 5HT0 shall be credited to the 75560
fund. 75561

GRANTS AND AWARDS 75562

The Grants and Awards Fund (Fund 5T80) shall consist of 75563
grants and other money awarded to the Supreme Court (The 75564
Judiciary) by the State Justice Institute, the Division of 75565
Criminal Justice Services, or other entities. The foregoing 75566
appropriation item 005609, Grants and Awards, shall be used in a 75567
manner consistent with the purpose of the grant or award. If it is 75568
determined by the Administrative Director of the Supreme Court 75569
that additional appropriations are necessary, the amounts are 75570
hereby appropriated. 75571

No money in Fund 5T80 shall be transferred to any other fund 75572
by the Director of Budget and Management or the Controlling Board. 75573
However, interest earned on money in Fund 5T80 shall be credited 75574
or transferred to the General Revenue Fund. 75575

SUPREME COURT ADMISSIONS 75576

The foregoing appropriation item 005606, Supreme Court 75577
Admissions, shall be used to compensate Supreme Court employees 75578

who are primarily responsible for administering the attorney 75579
admissions program under the Rules for the Government of the Bar 75580
of Ohio, and to fund any other activities considered appropriate 75581
by the court. Moneys shall be deposited into the Supreme Court 75582
Admissions Fund (Fund 6A80) under the Supreme Court Rules for the 75583
Government of the Bar of Ohio. If it is determined by the 75584
Administrative Director of the Supreme Court that additional 75585
appropriations are necessary, the amounts are hereby appropriated. 75586

No money in Fund 6A80 shall be transferred to any other fund 75587
by the Director of Budget and Management or the Controlling Board. 75588
Interest earned on money in Fund 6A80 shall be credited to the 75589
fund. 75590

Sec. 327.10. LCO LIQUOR CONTROL COMMISSION 75591

State Special Revenue Fund Group 75592

5LP0 970601 Commission Operating \$ 0 \$ 754,146 75593

Expense

TOTAL SSR State Special Revenue \$ 0 \$ 754,146 75594

Fund Group

Liquor Control Fund Group 75595

7043 970321 Operating Expenses \$ 753,933 \$ ~~754,146~~ 0 75596

TOTAL LCF Liquor Control Fund Group \$ 753,933 \$ ~~754,146~~ 0 75597

TOTAL ALL BUDGET FUND GROUPS \$ 753,933 \$ 754,146 75598

Sec. 335.10. AMB OHIO MEDICAL TRANSPORTATION BOARD 75600

General Services Fund Group 75601

4K90 915604 Operating Expenses \$ 493,641 \$ ~~493,856~~ 0 75602

TOTAL GSF General Services 75603

Fund Group \$ 493,641 \$ ~~493,856~~ 0 75604

TOTAL ALL BUDGET FUND GROUPS \$ 493,641 \$ ~~493,856~~ 0 75605

Sec. 337.10. DMH DEPARTMENT OF MENTAL HEALTH 75607

| | | | | |
|-----------------------------|----------------------|-------------------------------------|--|-------|
| General Revenue Fund | | | | 75608 |
| GRF | 332401 | Forensic Services | \$ 3,244,251 \$ 3,244,251 | 75609 |
| GRF | 333321 | Central Administration | \$ 16,000,000 \$ 16,000,000 | 75610 |
| GRF | 333402 | Resident Trainees | \$ 450,000 \$ 450,000 | 75611 |
| GRF | 333403 | Pre-Admission Screening Expenses | \$ 486,119 \$ 486,119 <u>286,119</u> | 75612 |
| GRF | 333415 | Lease-Rental Payments | \$ 18,394,250 \$ 19,907,900 <u>17,907,900</u> | 75613 |
| GRF | 333416 | Research Program Evaluation | \$ 421,724 \$ 421,998 | 75614 |
| GRF | 334412 | Hospital Services | \$ 194,918,888 \$ 192,051,209 <u>191,051,209</u> | 75615 |
| GRF | 334506 | Court Costs | \$ 584,210 \$ 584,210 | 75616 |
| GRF | 335405 | Family & Children First | \$ 1,386,000 \$ 1,386,000 | 75617 |
| GRF | 335419 | Community Medication Subsidy | \$ 8,963,818 \$ 8,963,818 | 75618 |
| GRF | 335501 | Mental Health Medicaid Match | \$ 186,400,000 \$ 0 | 75619 |
| GRF | 335505 | Local Mental Health Systems of Care | \$ 49,963,776 \$ 59,087,955 <u>62,087,955</u> | 75620 |
| GRF | 335506 | Residential State Supplement | \$ 4,702,875 \$ 4,702,875 | 75621 |
| TOTAL GRF | General Revenue Fund | | \$ 485,915,911 \$ 307,286,335 <u>307,086,335</u> | 75622 |
| General Services Fund Group | | | | 75623 |
| 1490 | 333609 | Central Office Operating | \$ 1,343,190 \$ 1,343,190 | 75624 |
| 1490 | 334609 | Hospital - Operating Expenses | \$ 28,190,000 \$ 28,190,000 | 75625 |
| 1500 | 334620 | Special Education | \$ 150,000 \$ 150,000 | 75626 |

| | | | | | | | |
|------------------------------------|-------------------------|---|----|-------------|----|--|-------|
| 4P90 | 335604 | Community Mental Health Projects | \$ | 4,061,100 | \$ | 250,000 | 75627 |
| 1510 | 336601 | Office of Support Services | \$ | 129,770,770 | \$ | 129,779,822 <u>127,297,130</u> | 75628 |
| TOTAL GSF Group | General Services Fund | | \$ | 163,515,060 | \$ | 159,713,012 <u>157,230,320</u> | 75629 |
| Federal Special Revenue Fund Group | | | | | | | 75630 |
| 3240 | 333605 | Medicaid/Medicare | \$ | 154,500 | \$ | 154,500 | 75631 |
| 3A60 | 333608 | Federal Miscellaneous | \$ | 140,000 | \$ | 140,000 | 75632 |
| 3A70 | 333612 | Social Services Block Grant | \$ | 50,000 | \$ | 50,000 | 75633 |
| 3A80 | 333613 | Federal Grant - Administration | \$ | 4,717,000 | \$ | 4,717,000 | 75634 |
| 3A90 | 333614 | Mental Health Block Grant - Administration | \$ | 748,470 | \$ | 748,470 | 75635 |
| 3B10 | 333635 | Community Medicaid Expansion | \$ | 13,691,682 | \$ | 13,691,682 | 75636 |
| 3240 | 334605 | Medicaid/Medicare | \$ | 28,200,000 | \$ | 28,200,000 | 75637 |
| 3A60 | 334608 | Federal Miscellaneous | \$ | 200,000 | \$ | 200,000 | 75638 |
| 3A80 | 334613 | Federal Letter of Credit | \$ | 200,000 | \$ | 200,000 | 75639 |
| 3A60 | 335608 | Federal Miscellaneous | \$ | 2,170,000 | \$ | 2,170,000 | 75640 |
| 3A70 | 335612 | Social Services Block Grant | \$ | 8,400,000 | \$ | 8,400,000 | 75641 |
| 3A80 | 335613 | Federal Grant - Community Mental Health Board Subsidy | \$ | 2,500,000 | \$ | 2,500,000 | 75642 |
| 3A90 | 335614 | Mental Health Block Grant | \$ | 14,200,000 | \$ | 14,200,000 | 75643 |
| 3B10 | 335635 | Community Medicaid Expansion | \$ | 346,200,000 | \$ | 0 | 75644 |
| TOTAL FED | Federal Special Revenue | | \$ | 421,571,652 | \$ | 75,371,652 | 75645 |

Fund Group

| | | | | | | |
|----------------------------------|-----------------------|----|---------------|----|------------------------|-------|
| State Special Revenue Fund Group | | | | | 75646 | |
| 2320 333621 | Family and Children | \$ | 448,286 | \$ | 432,197 | 75647 |
| | First Administration | | | | | |
| 4850 333632 | Mental Health | \$ | 134,233 | \$ | 134,233 | 75648 |
| | Operating | | | | | |
| 4X50 333607 | Behavioral Health | \$ | 3,000,624 | \$ | 3,000,624 | 75649 |
| | Medicaid Services | | | | | |
| 5V20 333611 | Non-Federal | \$ | 100,000 | \$ | 100,000 | 75650 |
| | Miscellaneous | | | | | |
| 4850 334632 | Mental Health | \$ | 2,477,500 | \$ | 2,477,500 | 75651 |
| | Operating | | | | | |
| 5AU0 335615 | Behavioral Healthcare | \$ | 6,690,000 | \$ | 6,690,000 | 75652 |
| 6320 335616 | Community Capital | \$ | 350,000 | \$ | 350,000 | 75653 |
| | Replacement | | | | | |
| TOTAL SSR State Special Revenue | | \$ | 13,200,643 | \$ | 13,184,554 | 75654 |
| Fund Group | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 1,084,203,266 | \$ | 555,555,553 | 75655 |
| | | | | | <u>552,872,861</u> | |

Sec. 343.10. DNR DEPARTMENT OF NATURAL RESOURCES

75657

General Revenue Fund

75658

| | | | | | | |
|-------------------|-------------------------------|----|------------|----|------------------|-------|
| GRF 725401 | Wildlife-GRF Central | \$ | 1,800,000 | \$ | 1,800,000 | 75659 |
| | Support | | | | | |
| GRF 725413 | Lease Rental Payments | \$ | 20,568,600 | \$ | 19,734,700 | 75660 |
| GRF 725456 | Canal Lands | \$ | 135,000 | \$ | 135,000 | 75661 |
| GRF 725502 | Soil and Water | \$ | 2,900,000 | \$ | 2,900,000 | 75662 |
| | Districts | | | | | |
| <u>GRF 725505</u> | <u>Healthy Lake Erie Fund</u> | \$ | <u>0</u> | \$ | <u>3,000,000</u> | 75663 |
| GRF 725903 | Natural Resources | \$ | 5,375,300 | \$ | 25,209,100 | 75664 |
| | General Obligation | | | | | |
| | Debt Service | | | | | |

| | | | | | | | |
|-----------------------------|----------------------|--|----|------------|----|--|-------|
| GRF | 727321 | Division of Forestry | \$ | 4,878,338 | \$ | 4,880,000 | 75665 |
| GRF | 729321 | Office of Information Technology | \$ | 194,118 | \$ | 197,117 | 75666 |
| GRF | 730321 | Division of Parks and Recreation | \$ | 30,000,000 | \$ | 30,000,000 | 75667 |
| GRF | 736321 | Division of Engineering | \$ | 3,024,459 | \$ | 3,025,078 <u>2,995,078</u> | 75668 |
| GRF | 737321 | Division of Soil and Water Resources | \$ | 4,982,961 | \$ | 4,983,356 | 75669 |
| GRF | 741321 | Division of Natural Areas and Preserves | \$ | 1,200,000 | \$ | 1,200,000 | 75670 |
| TOTAL GRF | General Revenue Fund | | \$ | 75,058,776 | \$ | 94,064,351 <u>97,034,351</u> | 75671 |
| General Services Fund Group | | | | | | | 75672 |
| 1550 | 725601 | Departmental Projects | \$ | 3,365,651 | \$ | 2,725,484 <u>2,512,977</u> | 75673 |
| 1570 | 725651 | Central Support Indirect | \$ | 5,854,167 | \$ | 5,857,800 | 75674 |
| 2040 | 725687 | Information Services | \$ | 4,659,276 | \$ | 4,643,835 | 75675 |
| 2070 | 725690 | Real Estate Services | \$ | 50,000 | \$ | 50,000 | 75676 |
| 2230 | 725665 | Law Enforcement Administration | \$ | 2,106,776 | \$ | 2,126,432 | 75677 |
| 2270 | 725406 | Parks Projects Personnel | \$ | 436,500 | \$ | 436,500 | 75678 |
| 4300 | 725671 | Canal Lands | \$ | 907,618 | \$ | 907,879 <u>883,879</u> | 75679 |
| 4D50 | 725618 | Recycled Materials | \$ | 50,000 | \$ | 50,000 0 | 75680 |
| 4S90 | 725622 | NatureWorks Personnel | \$ | 400,358 | \$ | 400,358 | 75681 |
| 4X80 | 725662 | Water Resources Council | \$ | 138,011 | \$ | 138,005 | 75682 |
| 5100 | 725631 | Maintenance - State-owned Residences | \$ | 303,611 | \$ | 303,611 | 75683 |

| | | | | | | | |
|------------------------------------|--------|-----------------------|----|------------|----|-----------------------|-------------------|
| 5160 | 725620 | Water Management | \$ | 2,541,565 | \$ | 2,559,292 | 75684 |
| 6350 | 725664 | Fountain Square | \$ | 3,544,623 | \$ | 3,548,445 | 75685 |
| | | Facilities Management | | | | <u>3,473,413</u> | |
| 6970 | 725670 | Submerged Lands | \$ | 836,162 | \$ | 848,546 | 75686 |
| TOTAL GSF General Services | | | | | | | 75687 |
| Fund Group | | | \$ | 25,194,318 | \$ | 24,596,187 | 75688 |
| | | | | | | | <u>24,234,648</u> |
| Federal Special Revenue Fund Group | | | | | | | 75689 |
| 3320 | 725669 | Federal Mine Safety | \$ | 258,102 | \$ | 258,102 | 75690 |
| | | Grant | | | | | |
| 3B30 | 725640 | Federal Forest | \$ | 600,000 | \$ | 600,000 | 75691 |
| | | Pass-Thru | | | | | |
| 3B40 | 725641 | Federal Flood | \$ | 600,000 | \$ | 600,000 | 75692 |
| | | Pass-Thru | | | | | |
| 3B50 | 725645 | Federal Abandoned | \$ | 21,007,667 | \$ | 21,207,667 | 75693 |
| | | Mine Lands | | | | | |
| 3B60 | 725653 | Federal Land and | \$ | 1,150,000 | \$ | 1,150,000 | 75694 |
| | | Water Conservation | | | | | |
| | | Grants | | | | | |
| 3B70 | 725654 | Reclamation - | \$ | 3,200,000 | \$ | 3,200,000 | 75695 |
| | | Regulatory | | | | | |
| 3P10 | 725632 | Geological Survey - | \$ | 692,401 | \$ | 692,401 | 75696 |
| | | Federal | | | | | |
| 3P20 | 725642 | Oil and Gas-Federal | \$ | 234,509 | \$ | 234,509 | 75697 |
| 3P30 | 725650 | Coastal Management - | \$ | 3,290,633 | \$ | 3,290,633 | 75698 |
| | | Federal | | | | | |
| 3P40 | 725660 | Federal - Soil and | \$ | 1,213,048 | \$ | 1,209,957 | 75699 |
| | | Water Resources | | | | | |
| 3R50 | 725673 | Acid Mine Drainage | \$ | 2,025,001 | \$ | 2,025,001 | 75700 |
| | | Abatement/Treatment | | | | | |
| 3Z50 | 725657 | Federal Recreation | \$ | 1,850,000 | \$ | 1,850,000 | 75701 |
| | | and Trails | | | | | |
| TOTAL FED Federal Special Revenue | | | | | | | 75702 |

| | | | | | | |
|----------------------------------|------------------------|----|------------|----|-------------------------------|-------|
| Fund Group | | \$ | 36,121,361 | \$ | 36,318,270 | 75703 |
| State Special Revenue Fund Group | | | | | | 75704 |
| 4J20 725628 | Injection Well Review | \$ | 130,899 | \$ | 128,466 | 75705 |
| 4M70 725686 | Wildfire Suppression | \$ | 100,000 | \$ | 100,000 | 75706 |
| 4U60 725668 | Scenic Rivers | \$ | 100,000 | \$ | 100,000 | 75707 |
| | Protection | | | | | |
| 5090 725602 | State Forest | \$ | 7,891,747 | \$ | 7,058,793 | 75708 |
| 5110 725646 | Ohio Geological | \$ | 704,777 | \$ | 705,130 | 75709 |
| | Mapping | | | | | |
| 5120 725605 | State Parks Operations | \$ | 32,284,117 | \$ | 31,550,444 | 75710 |
| 5140 725606 | Lake Erie Shoreline | \$ | 1,502,654 | \$ | 1,505,983 | 75711 |
| 5180 725643 | Oil and Gas Permit | \$ | 5,821,970 | \$ | 5,623,645 | 75712 |
| | Fees | | | | <u>9,823,645</u> | |
| 5180 725677 | Oil and Gas Well | \$ | 800,000 | \$ | 800,000 | 75713 |
| | Plugging | | | | | |
| 5210 725627 | Off-Road Vehicle | \$ | 143,490 | \$ | 143,490 | 75714 |
| | Trails | | | | | |
| 5220 725656 | Natural Areas and | \$ | 546,580 | \$ | 546,639 | 75715 |
| | Preserves | | | | | |
| 5260 725610 | Strip Mining | \$ | 2,000,000 | \$ | 2,000,000 | 75716 |
| | Administration Fee | | | | | |
| 5270 725637 | Surface Mining | \$ | 1,940,977 | \$ | 1,941,532 | 75717 |
| | Administration | | | | | |
| 5290 725639 | Unreclaimed Land Fund | \$ | 2,004,180 | \$ | 2,004,180 | 75718 |
| 5310 725648 | Reclamation Forfeiture | \$ | 1,423,000 | \$ | 1,423,000 | 75719 |
| | | | | | <u>500,000</u> | |
| 5320 725644 | Litter Control and | \$ | 4,926,730 | \$ | 4,911,575 <u>0</u> | 75720 |
| | Recycling | | | | | |
| 5860 725633 | Scrap Tire Program | \$ | 1,497,645 | \$ | 1,497,645 <u>0</u> | 75721 |
| 5B30 725674 | Mining Regulation | \$ | 28,135 | \$ | 28,135 | 75722 |
| 5BV0 725658 | Heidelberg Water | \$ | 250,000 | \$ | 250,000 | 75723 |
| | Quality Lab | | | | | |
| 5BV0 725683 | Soil and Water | \$ | 8,000,000 | \$ | 8,000,000 | 75724 |

| | | Districts | | | | |
|------------------------------------|--------|-----------------------|------------|------------|-----------------------|-------------------|
| 5CU0 | 725647 | Mine Safety | \$ | 3,000,000 | \$ | 3,000,000 75725 |
| 5EJ0 | 725608 | Forestry Law | \$ | 1,000 | \$ | 1,000 75726 |
| | | Enforcement | | | | |
| 5EK0 | 725611 | Natural Areas & | \$ | 1,000 | \$ | 1,000 75727 |
| | | Preserves Law | | | | |
| | | Enforcement | | | | |
| 5EL0 | 725612 | Wildlife Law | \$ | 12,000 | \$ | 12,000 75728 |
| | | Enforcement | | | | |
| 5EM0 | 725613 | Park Law Enforcement | \$ | 34,000 | \$ | 34,000 75729 |
| 5EN0 | 725614 | Watercraft Law | \$ | 2,500 | \$ | 2,500 75730 |
| | | Enforcement | | | | |
| 5HK0 | 725625 | Ohio Nature Preserves | \$ | 1,000 | \$ | 1,000 75731 |
| 6150 | 725661 | Dam Safety | \$ | 925,344 | \$ | 926,028 75732 |
| TOTAL SSR State Special Revenue | | | | | | 75733 |
| Fund Group | | \$ | 76,073,745 | \$ | 74,296,185 | 75734 |
| | | | | | | <u>71,163,965</u> |
| Clean Ohio Conservation Fund Group | | | | | | 75735 |
| 7061 | 725405 | Clean Ohio Operating | \$ | 300,775 | \$ | 300,775 75736 |
| TOTAL CLF Clean Ohio Conservation | | \$ | 300,775 | \$ | 300,775 | 75737 |
| Fund Group | | | | | | |
| Wildlife Fund Group | | | | | | 75738 |
| 5P20 | 725634 | Wildlife Boater | \$ | 4,000,000 | \$ | 4,000,000 75739 |
| | | Angler Administration | | | | |
| 7015 | 740401 | Division of Wildlife | \$ | 52,721,044 | \$ | 51,669,158 75740 |
| | | Conservation | | | | |
| 8150 | 725636 | Cooperative | \$ | 120,449 | \$ | 120,449 75741 |
| | | Management Projects | | | | |
| 8160 | 725649 | Wetlands Habitat | \$ | 966,885 | \$ | 966,885 75742 |
| 8170 | 725655 | Wildlife Conservation | \$ | 3,240,000 | \$ | 3,240,000 75743 |
| | | Checkoff Fund | | | | |
| 8180 | 725629 | Cooperative Fisheries | \$ | 1,500,000 | \$ | 1,500,000 75744 |

| | | | | | |
|---|----------|-----------------------|----------------|---------------------------|-------|
| | Research | | | | |
| 8190 | 725685 | Ohio River Management | \$ 128,584 | \$ 128,584 | 75745 |
| TOTAL WLF Wildlife Fund Group | | | \$ 62,676,962 | \$ 61,625,076 | 75746 |
| Waterways Safety Fund Group | | | | | 75747 |
| 7086 | 725414 | Waterways Improvement | \$ 5,692,601 | \$ 5,693,671 | 75748 |
| 7086 | 725418 | Buoy Placement | \$ 52,182 | \$ 52,182 | 75749 |
| 7086 | 725501 | Waterway Safety | \$ 120,000 | \$ 120,000 | 75750 |
| Grants | | | | | |
| 7086 | 725506 | Watercraft Marine | \$ 576,153 | \$ 576,153 | 75751 |
| Patrol | | | | | |
| 7086 | 725513 | Watercraft | \$ 366,643 | \$ 366,643 | 75752 |
| Educational Grants | | | | | |
| 7086 | 739401 | Division of | \$ 18,040,593 | \$ 17,552,370 | 75753 |
| Watercraft | | | | | |
| TOTAL WSF Waterways Safety Fund | | | | | 75754 |
| Group | | | \$ 24,848,172 | \$ 24,361,019 | 75755 |
| Accrued Leave Liability Fund Group | | | | | 75756 |
| 4M80 | 725675 | FOP Contract | \$ 20,219 | \$ 20,219 | 75757 |
| TOTAL ALF Accrued Leave | | | | | 75758 |
| Liability Fund Group | | | \$ 20,219 | \$ 20,219 | 75759 |
| Holding Account Redistribution Fund Group | | | | | 75760 |
| R017 | 725659 | Performance Cash Bond | \$ 296,263 | \$ 296,263 | 75761 |
| Refunds | | | | | |
| R043 | 725624 | Forestry | \$ 2,000,000 | \$ 2,154,750 | 75762 |
| TOTAL 090 Holding Account | | | | | 75763 |
| Redistribution Fund Group | | | \$ 2,296,263 | \$ 2,451,013 | 75764 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ 302,590,591 | \$ 318,033,095 | 75765 |
| | | | | <u>317,509,336</u> | |

Sec. 343.40. LEASE RENTAL PAYMENTS 75767

The foregoing appropriation item 725413, Lease Rental 75768

Payments, shall be used to meet all payments at the times they are 75769

required to be made during the period from July 1, 2011, through 75770
June 30, 2013, by the Department of Natural Resources pursuant to 75771
leases and agreements made under section 154.22 of the Revised 75772
Code. These appropriations are the source of funds pledged for 75773
bond service charges or obligations issued pursuant to Chapter 75774
154. of the Revised Code. 75775

CANAL LANDS 75776

The foregoing appropriation item 725456, Canal Lands, shall 75777
be used to transfer funds to the Canal Lands Fund (Fund 4300) to 75778
provide operating expenses for the State Canal Lands Program. The 75779
transfer shall be made using an intrastate transfer voucher and 75780
shall be subject to the approval of the Director of Budget and 75781
Management. 75782

HEALTHY LAKE ERIE FUND 75783

The foregoing appropriation item 725505, Healthy Lake Erie 75784
Fund, shall be used by the Director of Natural Resources, in 75785
consultation with the Director of Agriculture and the Director of 75786
Environmental Protection, to implement nonstatutory 75787
recommendations of the Agriculture Nutrients and Water Quality 75788
Working Group. The Director shall give priority to recommendations 75789
that encourage farmers to adopt agricultural production guidelines 75790
commonly known as 4R nutrient stewardship practices. Funds may 75791
also be used for enhanced soil testing in the Western Lake Erie 75792
Basin, monitoring the quality of Lake Erie and its tributaries, 75793
and establishing pilot projects that have the goal of reducing 75794
algae blooms in Lake Erie. 75795

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 75796

The foregoing appropriation item 725903, Natural Resources 75797
General Obligation Debt Service, shall be used to pay all debt 75798
service and related financing costs during the period July 1, 75799
2011, through June 30, 2013, on obligations issued under sections 75800

| | | | | |
|---|---|---------------|--|-------|
| 151.01 and 151.05 of the Revised Code. | | | | 75801 |
| Sec. 365.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO | | | | 75802 |
| General Services Fund Group | | | | 75803 |
| 5F60 870622 | Utility and Railroad Regulation | \$ 30,637,234 | \$ 31,638,708 | 75804 |
| 5F60 870624 | NARUC/NRRI Subsidy | \$ 158,000 | 158,000 <u>100,000</u> | 75805 |
| 5F60 870625 | Motor Transportation Regulation | \$ 4,976,641 | 5,971,218 <u>0</u> | 75806 |
| 5Q50 870626 | Telecommunications Relay Service | \$ 5,000,000 | \$ 5,000,000 | 75807 |
| TOTAL GSF General Services Fund Group | | | | 75808 |
| | | \$ 40,771,875 | 42,767,926 <u>36,738,708</u> | 75809 |
| Federal Special Revenue Fund Group | | | | 75810 |
| 3330 870601 | Gas Pipeline Safety | \$ 597,959 | \$ 597,959 | 75811 |
| 3500 870608 | Motor Carrier Safety | \$ 7,351,660 | \$ 7,351,660 | 75812 |
| 3CU0 870627 | Electric Market Modeling | \$ 91,183 | \$ 0 | 75813 |
| 3EA0 870630 | Energy Assurance Planning | \$ 384,000 | \$ 384,000 | 75814 |
| 3ED0 870631 | State Regulators Assistance | \$ 231,824 | \$ 231,824 | 75815 |
| 3V30 870604 | Commercial Vehicle Information Systems/Networks | \$ 100,000 | \$ 100,000 | 75816 |
| TOTAL FED Federal Special Revenue Fund Group | | | | 75817 |
| | | \$ 8,756,626 | \$ 8,665,443 | 75818 |
| State Special Revenue Fund Group | | | | 75819 |
| 4A30 870614 | Grade Crossing Protection | \$ 1,347,357 | \$ 1,347,357 | 75820 |

| | | | | | | | |
|-------------|---------------|-------------------------------|-----------|------------|-----------|-----------------------|-------|
| | | Devices-State | | | | | |
| 4L80 | 870617 | Pipeline Safety-State | \$ | 181,992 | \$ | 181,992 | 75821 |
| 4S60 | 870618 | Hazardous Material | \$ | 450,395 | \$ | 450,395 0 | 75822 |
| | | Registration | | | | | |
| 4S60 | 870621 | Hazardous Materials | \$ | 373,346 | \$ | 373,346 0 | 75823 |
| | | Base State | | | | | |
| | | Registration | | | | | |
| 4U80 | 870620 | Civil Forfeitures | \$ | 277,347 | \$ | 277,496 0 | 75824 |
| 5590 | 870605 | Public Utilities | \$ | 3,880 | \$ | 3,880 0 | 75825 |
| | | Territorial | | | | | |
| | | Administration | | | | | |
| 5600 | 870607 | Special Assessment | \$ | 97,000 | \$ | 97,000 0 | 75826 |
| 5610 | 870606 | Power Siting Board | \$ | 631,508 | \$ | 631,618 | 75827 |
| | | | | | | <u>581,618</u> | |
| 5BP0 | 870623 | Wireless 9-1-1 | \$ | 36,440,000 | \$ | 18,220,000 | 75828 |
| | | Administration | | | | <u>17,757,250</u> | |
| 5HD0 | 870629 | Radioactive Waste | \$ | 98,800 | \$ | 98,800 0 | 75829 |
| | | Transportation | | | | | |
| <u>5LT0</u> | <u>870640</u> | <u>Intrastate</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>180,000</u> | 75830 |
| | | <u>Registration</u> | | | | | |
| <u>5LT0</u> | <u>870641</u> | <u>Unified Carrier</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>420,000</u> | 75831 |
| | | <u>Registration</u> | | | | | |
| <u>5LT0</u> | <u>870642</u> | <u>Hazardous Materials</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>823,741</u> | 75832 |
| | | <u>Registration</u> | | | | | |
| <u>5LT0</u> | <u>870643</u> | <u>Nonhazardous Materials</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>277,496</u> | 75833 |
| | | <u>Civil Forfeiture</u> | | | | | |
| <u>5LT0</u> | <u>870644</u> | <u>Hazardous Materials</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>898,800</u> | 75834 |
| | | <u>Civil Forfeiture</u> | | | | | |
| <u>5LT0</u> | <u>870645</u> | <u>Motor Carrier</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>5,401,318</u> | 75835 |
| | | <u>Enforcement</u> | | | | | |
| 6380 | 870611 | Biofuels/Municipal | \$ | 570 | \$ | 0 | 75836 |
| | | Waste Technology | | | | | |
| 6610 | 870612 | Hazardous Materials | \$ | 898,800 | \$ | 898,800 0 | 75837 |

Transportation

| | | | | |
|---------------------------------|----|------------|----|-----------------------------|
| TOTAL SSR State Special Revenue | | | | 75838 |
| Fund Group | \$ | 40,800,995 | \$ | 22,580,684 75839 |
| | | | | <u>27,869,572</u> |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 90,329,496 | \$ | 74,014,053 75840 |
| | | | | <u>73,273,723</u> |

COMMUNITY-VOICEMAIL SERVICE PILOT PROGRAM 75841

The Community-voicemail Service Pilot Program assessments 75842
authorized by Section 6 of Sub. S.B. 162 of the 128th General 75843
Assembly shall cease. These assessments shall be refunded without 75844
interest to those assessed under the program by the Public 75845
Utilities Commission within 60 days of the effective date of this 75846
section. 75847

FUND ADJUSTMENTS 75848

On July 1, 2012, or as soon as practicable thereafter, the 75849
Director of Budget and Management shall transfer the cash balances 75850
in the Hazardous Materials Registration Fund (Fund 4S60) and the 75851
Base State Registration Fund (Fund 4G40) to the Public Utilities 75852
Transportation Safety Fund (Fund 5LT0). The Director shall cancel 75853
any existing encumbrances against appropriation items 870618, 75854
Hazardous Material Registration, and 870621, Hazardous Materials 75855
Base State Registration, and reestablish them against 75856
appropriation item 870642, Hazardous Materials Registration. The 75857
amounts of the reestablished encumbrances are hereby appropriated. 75858
Upon completion of these transfers, the Hazardous Materials 75859
Registration Fund (Fund 4S60) and the Base State Registration Fund 75860
(Fund 4G40) are hereby abolished. 75861

On July 1, 2012, or as soon as practicable thereafter, the 75862
Director of Budget and Management shall transfer the cash balance 75863
in the Transportation Enforcement Fund (Fund 4U80) to the Public 75864
Utilities Transportation Safety Fund (Fund 5LT0). The Director 75865
shall cancel any existing encumbrances against appropriation item 75866

870620, Civil Forfeitures, and reestablish them against 75867
appropriation item 870643, Nonhazardous Materials Civil 75868
Forfeitures. The amounts of the reestablished encumbrances are 75869
hereby appropriated. Upon completion of these transfers, the 75870
Transportation Enforcement Fund (Fund 4U80) is hereby abolished. 75871

On July 1, 2012, or as soon as practicable thereafter, the 75872
Director of Budget and Management shall transfer the cash balance 75873
in the Radioactive Waste Transportation Fund (Fund 5HD0) to the 75874
Public Utilities Transportation Safety Fund (Fund 5LT0). The 75875
Director shall cancel any existing encumbrances against 75876
appropriation item 870629, Radioactive Waste Transportation, and 75877
reestablish them against appropriation item 870645, Motor Carrier 75878
Enforcement. The amounts of the reestablished encumbrances are 75879
hereby appropriated. Upon completion of these transfers, the 75880
Radioactive Waste Transportation Fund (Fund 5HD0) is hereby 75881
abolished. 75882

On July 1, 2012, or as soon as practicable thereafter, the 75883
Director of Budget and Management shall transfer the cash balance 75884
in the Hazardous Materials Transportation Fund (Fund 6610) to the 75885
Public Utilities Transportation Safety Fund (Fund 5LT0). The 75886
Director shall cancel any existing encumbrances against 75887
appropriation item 870612, Hazardous Materials Transportation, and 75888
reestablish them against appropriation item 870644, Hazardous 75889
Materials Civil Forfeitures. The amounts of the reestablished 75890
encumbrances are hereby appropriated. Upon completion of these 75891
transfers, the Hazardous Materials Transportation Fund (Fund 6610) 75892
is hereby abolished. 75893

On July 1, 2012, or as soon as practicable thereafter, the 75894
Director of Budget and Management shall transfer cash in an amount 75895
up to \$21,000,000 from the Public Utilities Fund (Fund 5F60) to 75896
the Public Utilities Transportation Safety Fund (Fund 5LT0). The 75897
Director shall cancel any existing encumbrances against 75898

appropriation item 870625, Motor Transportation Regulation, and 75899
reestablish encumbrances or parts of encumbrances as needed in the 75900
fiscal year in the appropriate fund and appropriation item for the 75901
same purpose and to the same vendor. The amounts of the 75902
reestablished encumbrances are hereby appropriated. 75903

The fund created by division (E) of section 4921.21 of the 75904
Revised Code is the same fund, with the same name, as the Motor 75905
Carrier Safety Fund (Fund 3500). 75906

The fund created by division (D) of section 4921.21 of the 75907
Revised Code is the same fund, with the same name, as the 75908
Commercial Vehicle Transportation Systems Fund (Fund 3V30). 75909

Sec. 367.10. PWC PUBLIC WORKS COMMISSION 75910

General Revenue Fund 75911

| | | | | |
|------------|----------------------|---------------|---------------|-------|
| GRF 150904 | Conservation General | \$ 21,953,000 | \$ 29,297,300 | 75912 |
| | Obligation Debt | | | |
| | Service | | | |

| | | | | |
|------------|---------------|----------------|------------------------|-------|
| GRF 150907 | State Capital | \$ 106,770,600 | 215,571,100 | 75913 |
| | Improvements | | <u>208,571,100</u> | |

General Obligation 75914

Debt Service

| | | | |
|--------------------------------|----------------|---------------------------|-------|
| TOTAL GRF General Revenue Fund | \$ 128,723,600 | \$ 244,868,400 | 75915 |
| | | <u>237,868,400</u> | |

Clean Ohio Conservation Fund Group 75916

| | | | | |
|-------------|----------------------|------------|------------|-------|
| 7056 150403 | Clean Ohio Operating | \$ 300,000 | \$ 288,980 | 75917 |
| | Expenses | | | |

| | | | |
|-----------------------------------|------------|------------|-------|
| TOTAL 056 Clean Ohio Conservation | \$ 300,000 | \$ 288,980 | 75918 |
|-----------------------------------|------------|------------|-------|

Fund Group

| | | | |
|------------------------------|----------------|---------------------------|-------|
| TOTAL ALL BUDGET FUND GROUPS | \$ 129,023,600 | \$ 245,157,380 | 75919 |
| | | <u>238,157,380</u> | |

CONSERVATION GENERAL OBLIGATION DEBT SERVICE 75920

The foregoing appropriation item 150904, Conservation 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 151.09 of the Revised Code.

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 75927

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.

CLEAN OHIO OPERATING EXPENSES 75934

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.

REIMBURSEMENT TO THE GENERAL REVENUE FUND 75939

(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:

(1) The total amount disbursed from appropriation item 700409, Farmland Preservation, during the FY 2012-FY 2013 biennium; and

(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.

(B) If the Director of Budget and Management determines under

division (A)(2) of this section that there are excess interest 75951
earnings, the Director of Budget and Management shall, on or 75952
before July 15, 2013, transfer the excess interest earnings to the 75953
General Revenue Fund in an amount equal to the total amount 75954
disbursed under division (A)(1) of this section from the Clean 75955
Ohio Conservation Fund (Fund 7056). 75956

Sec. 369.10. RAC STATE RACING COMMISSION 75957

State Special Revenue Fund Group 75958

5620 875601 Thoroughbred Race \$ 1,796,328 \$ 1,696,456 75959
Fund

5630 875602 Standardbred \$ 1,697,418 \$ 1,697,452 75960
Development Fund

5640 875603 Quarter Horse \$ 1,000 \$ 1,000 75961
Development Fund

5650 875604 Racing Commission \$ 3,095,331 \$ 2,934,178 75962
Operating

5C40 875607 Simulcast Horse \$ 12,000,000 \$ 12,000,000 75963
Racing Purse

5JK0 875610 Racing Commission \$ 339,919 \$ 8,169,547 75964
Fund

TOTAL SSR State Special Revenue 75965

Fund Group \$ ~~18,590,078~~ \$ ~~18,329,087~~ 75966
18,929,996 26,498,633

Holding Account Redistribution Fund Group 75967

R021 875605 Bond Reimbursements \$ 100,000 \$ 100,000 75968

TOTAL 090 Holding Account 75969

Redistribution
Fund Group \$ 100,000 \$ 100,000 75970

TOTAL ALL BUDGET FUND GROUPS \$ ~~18,690,078~~ \$ ~~18,429,087~~ 75971
19,029,996 26,598,633

| | | | | |
|--|--|---------------|-------------------|-------|
| Sec. 371.10. BOR BOARD OF REGENTS | | | | 75973 |
| General Revenue Fund | | | | 75974 |
| GRF 235321 | Operating Expenses | \$ 2,300,000 | \$ 2,300,000 | 75975 |
| GRF 235401 | Lease Rental Payments | \$ 83,151,600 | \$ 57,634,400 | 75976 |
| GRF 235402 | Sea Grants | \$ 285,000 | \$ 285,000 | 75977 |
| GRF 235406 | Articulation and Transfer | \$ 2,000,000 | \$ 2,000,000 | 75978 |
| GRF 235408 | Midwest Higher Education Compact | \$ 95,000 | \$ 95,000 | 75979 |
| GRF 235409 | <u>HEI</u> Information System | \$ 800,000 | \$ 800,000 | 75980 |
| GRF 235414 | State Grants and Scholarship Administration | \$ 1,230,000 | \$ 1,230,000 | 75981 |
| GRF 235417 | Ohio Learning Network <u>eStudent Services</u> | \$ 2,532,688 | \$ 2,532,688 | 75982 |
| GRF 235428 | Appalachian New Economy Partnership | \$ 737,366 | \$ 737,366 | 75983 |
| GRF 235433 | Economic Growth Challenge | \$ 440,000 | \$ 440,000 | 75984 |
| GRF 235438 | Choose Ohio First Scholarship | \$ 15,750,085 | \$ 15,750,085 | 75985 |
| GRF 235443 | Adult Basic and Literacy Education - State | \$ 7,302,416 | \$ 7,302,416 | 75986 |
| GRF 235444 | Post-Secondary Adult Career-Technical Education | \$ 15,317,547 | \$ 15,317,547 | 75987 |
| GRF 235474 | Area Health Education Centers Program Support | \$ 900,000 | \$ 900,000 | 75988 |
| <u>GRF 235478</u> | <u>Statehouse News Bureau</u> | <u>\$ 0</u> | <u>\$ 215,561</u> | 75989 |
| <u>GRF 235479</u> | <u>Ohio Government</u> | <u>\$ 0</u> | <u>\$ 702,089</u> | 75990 |

| | | | | | |
|------------|-------------------------------|----|---------------|----|----------------------------|
| | <u>Telecommunications</u> | | | | |
| | <u>Services</u> | | | | |
| GRF 235480 | <u>General Technology</u> | \$ | 0 | \$ | <u>752,516</u> 75991 |
| | <u>Operations</u> | | | | |
| GRF 235481 | <u>Technology Operations</u> | \$ | 0 | \$ | <u>2,091,823</u> 75992 |
| GRF 235482 | <u>Content Development,</u> | \$ | 0 | \$ | <u>2,607,094</u> 75993 |
| | <u>Acquisition, and</u> | | | | |
| | <u>Distribution</u> | | | | |
| GRF 235483 | <u>Technology Integration</u> | \$ | 0 | \$ | <u>4,252,671</u> 75994 |
| | <u>and Professional</u> | | | | |
| | <u>Development</u> | | | | |
| GRF 235484 | <u>Information Technology</u> | \$ | 0 | \$ | <u>829,963</u> 75995 |
| GRF 235501 | State Share of | \$ | 1,735,530,031 | \$ | 1,751,225,497 75996 |
| | Instruction | | | | |
| GRF 235502 | Student Support | \$ | 632,974 | \$ | 632,974 75997 |
| | Services | | | | |
| GRF 235504 | War Orphans | \$ | 4,787,833 | \$ | 4,787,833 75998 |
| | Scholarships | | | | |
| GRF 235507 | OhioLINK | \$ | 6,100,000 | \$ | 6,100,000 75999 |
| | | | | | <u>5,950,000</u> |
| GRF 235508 | Air Force Institute of | \$ | 1,740,803 | \$ | 1,740,803 76000 |
| | Technology | | | | |
| GRF 235510 | Ohio Supercomputer | \$ | 3,347,418 | \$ | 3,347,418 76001 |
| | Center | | | | |
| GRF 235511 | Cooperative Extension | \$ | 22,220,910 | \$ | 22,220,910 76002 |
| | Service | | | | |
| GRF 235514 | Central State | \$ | 11,503,651 | \$ | 10,928,468 76003 |
| | Supplement | | | | |
| GRF 235515 | Case Western Reserve | \$ | 2,146,253 | \$ | 2,146,253 76004 |
| | University School of | | | | |
| | Medicine | | | | |
| GRF 235519 | Family Practice | \$ | 3,166,185 | \$ | 3,166,185 76005 |
| GRF 235520 | Shawnee State | \$ | 2,448,523 | \$ | 2,326,097 76006 |

| | | | | | |
|------------|---|----|------------|----|--|
| | Supplement | | | | |
| GRF 235524 | Police and Fire Protection | \$ | 107,814 | \$ | 107,814 |
| GRF 235525 | Geriatric Medicine | \$ | 522,151 | \$ | 522,151 |
| GRF 235526 | Primary Care Residencies | \$ | 1,500,000 | \$ | 1,500,000 |
| GRF 235535 | Ohio Agricultural Research and Development Center | \$ | 33,100,000 | \$ | 33,100,000 |
| GRF 235536 | The Ohio State University Clinical Teaching | \$ | 9,668,941 | \$ | 9,668,941 |
| GRF 235537 | University of Cincinnati Clinical Teaching | \$ | 7,952,573 | \$ | 7,952,573 |
| GRF 235538 | University of Toledo Clinical Teaching | \$ | 6,198,600 | \$ | 6,198,600 |
| GRF 235539 | Wright State University Clinical Teaching | \$ | 3,011,400 | \$ | 3,011,400 |
| GRF 235540 | Ohio University Clinical Teaching | \$ | 2,911,212 | \$ | 2,911,212 |
| GRF 235541 | Northeast Ohio Medical University Clinical Teaching | \$ | 2,994,178 | \$ | 2,994,178 |
| GRF 235552 | Capital Component | \$ | 20,638,274 | \$ | 20,638,274 <u>13,628,639</u> |
| GRF 235555 | Library Depositories | \$ | 1,440,342 | \$ | 1,440,342 |
| GRF 235556 | Ohio Academic Resources Network | \$ | 3,172,519 | \$ | 3,172,519 |
| GRF 235558 | Long-term Care Research | \$ | 195,300 | \$ | 195,300 |
| GRF 235563 | Ohio College | \$ | 80,284,265 | \$ | 80,284,265 |

| | | | | | | | |
|--------------------|--|--------------------------------------|----|---------------|----|--------------------------|-------|
| | | Opportunity Grant | | | | | |
| GRF 235572 | | The Ohio State | \$ | 766,533 | \$ | 766,533 | 76022 |
| | | University Clinic | | | | | |
| | | Support | | | | | |
| GRF 235599 | | National Guard | \$ | 16,912,271 | \$ | 18,143,293 | 76023 |
| | | Scholarship Program | | | | | |
| GRF 235909 | | Higher Education | \$ | 108,262,500 | \$ | 201,555,000 | 76024 |
| | | General Obligation | | | | | |
| | | Debt Service | | | | | |
| TOTAL GRF | | General Revenue Fund | \$ | 2,226,105,156 | \$ | 2,310,109,335 | 76025 |
| | | | | | | <u>2,314,401,417</u> | |
| | | General Services Fund Group | | | | | 76026 |
| 2200 235614 | | Program Approval and | \$ | 1,311,567 | \$ | 1,457,959 | 76027 |
| | | Reauthorization | | | | | |
| 4560 235603 | | Sales and Services | \$ | 199,250 | \$ | 199,250 | 76028 |
| <u>4F30 235679</u> | | <u>Technology Affiliate</u> | \$ | <u>0</u> | \$ | <u>50,000</u> | 76029 |
| | | <u>Services</u> | | | | | |
| <u>4T20 235680</u> | | <u>Government</u> | \$ | <u>0</u> | \$ | <u>25,000</u> | 76030 |
| | | <u>Television/Telecommunications</u> | | | | | |
| | | <u>Operating</u> | | | | | |
| 5JC0 235649 | | Co-op Internship | \$ | 12,000,000 | \$ | 12,000,000 | 76031 |
| | | Program | | | | | |
| 5JC0 235667 | | Ohio College | \$ | 6,000,000 | \$ | 6,000,000 | 76032 |
| | | Opportunity | | | | | |
| | | Grant-Proprietary | | | | | |
| 5JC0 235668 | | Air Force Institute | \$ | 4,000,000 | \$ | 4,000,000 | 76033 |
| | | of Technology - | | | | | |
| | | Defense/Aerospace | | | | | |
| | | Graduate Studies | | | | | |
| | | Institute | | | | | |
| TOTAL GSF | | General Services | | | | | 76034 |
| Fund Group | | | \$ | 23,510,817 | \$ | 23,657,209 | 76035 |
| | | | | | | <u>23,732,209</u> | |

| | | | | |
|---|---------------|--|---|-------|
| Federal Special Revenue Fund Group | | | | 76036 |
| 3120 | 235609 | Tech Prep | \$ 183,850 \$ 183,850 <u>0</u> | 76037 |
| 3120 | 235611 | Gear-up Grant | \$ 3,900,000 \$ 3,900,000 | 76038 |
| | | | <u>50,000</u> | |
| 3120 | 235612 | Carl D. Perkins Grant/Plan Administration | \$ 912,961 \$ 912,961 | 76039 |
| 3120 | 235617 | Improving Teacher Quality Grant | \$ 3,200,000 \$ 3,200,000 | 76040 |
| 3120 | 235641 | Adult Basic and Literacy Education - Federal | \$ 14,835,671 \$ 14,835,671 | 76041 |
| 3120 | 235659 | Race to the Top Scholarship Program | \$ 2,400,000 \$ 3,780,000 <u>0</u> | 76042 |
| 3120 | 235660 | Race to the Top Educator Preparation Reform Initiative | \$ 448,000 \$ 1,120,000 <u>0</u> | 76043 |
| 3120 | 235661 | Americorps Grant | \$ 260,000 \$ 260,000 <u>0</u> | 76044 |
| 3H20 | 235608 | Human Services Project | \$ 3,500,000 \$ 3,500,000 | 76045 |
| 3N60 | 235638 | College Access Challenge Grant | \$ 4,381,431 \$ 4,381,431 | 76046 |
| TOTAL FED Federal Special Revenue Fund Group | | | | 76047 |
| | | | \$ 34,021,913 \$ 36,073,913 | 76048 |
| | | | <u>26,880,063</u> | |
| State Special Revenue Fund Group | | | | 76049 |
| 4E80 | 235602 | Higher Educational Facility Commission Administration | \$ 29,100 \$ 29,100 | 76050 |
| <u>4W90</u> | <u>235673</u> | <u>Telecommunity</u> | <u>\$ 0</u> \$ <u>25,000</u> | 76051 |
| <u>4X10</u> | <u>235674</u> | <u>Distance Learning</u> | <u>\$ 0</u> \$ <u>24,150</u> | 76052 |
| <u>5D40</u> | <u>235675</u> | <u>Conference/Special</u> | <u>\$ 0</u> \$ <u>2,000,000</u> | 76053 |

| | | <u>Purposes</u> | | | | |
|--|--------|-------------------------------|---------------|-----------|--------------------------|------------------------|
| 5FK0 | 235676 | <u>Media Services</u> | \$ | <u>0</u> | \$ | <u>637,956</u> 76054 |
| 5FR0 | 235640 | Joyce Foundation | \$ | 919,719 | \$ | 919,719 76055 |
| | | <u>Shifting Gears Grant</u> | | | | |
| 5FR0 | 235647 | Developmental | \$ | 135,000 | \$ | 135,000 76056 |
| | | Education Initiatives | | | | |
| 5FR0 | 235657 | Win-Win Grant | \$ | 37,000 | \$ | 15,000 76057 |
| 5JU0 | 235677 | <u>Information Technology</u> | \$ | <u>0</u> | \$ | <u>1,455,000</u> 76058 |
| | | <u>Services</u> | | | | |
| 5P30 | 235663 | Variable Savings Plan | \$ | 8,946,994 | \$ | 9,072,136 76059 |
| 5T30 | 235978 | <u>Gates Foundation</u> | \$ | <u>0</u> | \$ | <u>171,112</u> 76060 |
| | | <u>Grants</u> | | | | |
| 6450 | 235664 | Guaranteed Savings | \$ | 900,293 | \$ | 907,514 76061 |
| | | Plan | | | | |
| 6820 | 235606 | Nursing Loan Program | \$ | 891,320 | \$ | 891,320 76062 |
| TOTAL SSR State Special Revenue | | | | | | 76063 |
| Fund Group | | \$ | 11,859,426 | \$ | 11,969,789 | 76064 |
| | | | | | | <u>16,283,007</u> |
| Third Frontier Research & Development Fund Group | | | | | | 76065 |
| 7011 | 235634 | Research Incentive | \$ | 8,000,000 | \$ | 8,000,000 76066 |
| | | Third Frontier Fund | | | | |
| TOTAL 011 Third Frontier Research & | | \$ | 8,000,000 | \$ | 8,000,000 | 76067 |
| Development Fund Group | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 2,303,497,312 | \$ | 2,389,810,246 | 76068 |
| | | | | | | <u>2,389,296,696</u> |

Sec. 371.50.61. CO-OP INTERNSHIP PROGRAM 76070

Of the foregoing appropriation item 235649, Co-op Internship 76071
 Program, \$75,000 in each fiscal year shall be used by the 76072
 Chancellor of the Board of Regents to support the operations of 76073
 Ohio University's Voinovich School. 76074

Of the foregoing appropriation item 235649, Co-op Internship 76075

Program, \$75,000 in each fiscal year, shall be used by the 76076
Chancellor of the Board of Regents to support the operations of 76077
The Ohio State University's John Glenn School of Public Affairs. 76078

Of the foregoing appropriation item 235649, Co-op Internship 76079
Program, \$75,000 in each fiscal year shall be used to support the 76080
Bliss Institute of Applied Politics at the University of Akron. 76081

Of the foregoing appropriation item 235649, Co-op Internship 76082
Program, \$75,000 in each fiscal year shall be used to support the 76083
Center for Public Management and Regional Affairs at Miami 76084
University. 76085

Of the foregoing appropriation item 235649, Co-op Internship 76086
Program, \$75,000 in each fiscal year shall be used to support the 76087
Washington Center Internship Program. 76088

Of the foregoing appropriation item 235649, Co-op Internship 76089
Program, \$75,000 in each fiscal year shall be used to support the 76090
~~Maxine Goodman Levin College of Urban Affairs~~ mentoring program of 76091
the Ohio Center for the Advancement of Women in Public Service at 76092
the Cleveland State University. 76093

Of the foregoing appropriation item 235649, Co-op Internship 76094
Program, \$75,000 in each fiscal year shall be used to support the 76095
University of Cincinnati Internship Program. 76096

Sec. 371.60.70. TECHNOLOGY PROGRAMS AND DISTANCE LEARNING 76097
CLEARINGHOUSE 76098

STATEHOUSE NEWS BUREAU 76099

The foregoing appropriation item 235478, Statehouse News 76100
Bureau, shall be used solely to support the operations of the Ohio 76101
Statehouse News Bureau. 76102

OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES 76103

The foregoing appropriation item 235479, Ohio Government 76104

Telecommunications Services, shall be used solely to support the 76105
operations of Ohio Government Telecommunications Services which 76106
include providing multimedia support to the state government and 76107
its affiliated organizations and broadcasting the activities of 76108
the legislative, judicial, and executive branches of state 76109
government, among its other functions. 76110

TECHNOLOGY OPERATIONS 76111

The foregoing appropriation item 235481, Technology 76112
Operations, shall be used by the Chancellor to pay expenses of 76113
Ohio's technology network infrastructure, which includes the 76114
television and radio transmission infrastructure and 76115
infrastructure that shall link all public K-12 classrooms to each 76116
other and to the Internet, and provide access to voice, video, 76117
other communication services, and data educational resources for 76118
students and teachers. The foregoing appropriation item 235481, 76119
Technology Operations, may also be used to cover student costs for 76120
taking advanced placement courses and courses that the Chancellor 76121
has determined to be eligible for postsecondary credit through the 76122
Ohio Learns Gateway. To the extent that funds remain available for 76123
this purpose, public school students taking advanced placement or 76124
postsecondary courses through the OhioLearns Gateway shall be 76125
eligible to receive a fee waiver to cover the cost of 76126
participating in one course. The fee waivers shall be distributed 76127
until the funds appropriated to support the waivers have been 76128
exhausted. 76129

CONTENT DEVELOPMENT, ACQUISITION, AND DISTRIBUTION 76130

The foregoing appropriation item 235482, Content Development, 76131
Acquisition, and Distribution, shall be used for the development, 76132
acquisition, and distribution of information resources by public 76133
media and radio reading services and for educational use in the 76134
classroom and online. 76135

Of the foregoing appropriation item 235482, Content 76136
Development, Acquisition, and Distribution, up to \$658,099 in 76137
fiscal year 2013 shall be allocated equally among the 12 Ohio 76138
educational television stations and used with the advice and 76139
approval of the Chancellor. Funds shall be used for the production 76140
of interactive instructional programming series with priority 76141
given to resources aligned with state academic content standards 76142
in consultation with the Ohio Department of Education and for 76143
teleconferences to support Ohio technology programs. The 76144
programming shall be targeted to the needs of the poorest two 76145
hundred school districts as determined by the district's adjusted 76146
valuation per pupil as defined in former section 3317.0213 of the 76147
Revised Code as that section existed prior to June 30, 2005. 76148

Of the foregoing appropriation item 235482, Content 76149
Development, Acquisition, and Distribution, up to \$1,749,283 in 76150
fiscal year 2013 shall be distributed by the Chancellor to Ohio's 76151
qualified public educational television stations and educational 76152
radio stations to support their operations. The funds shall be 76153
distributed pursuant to an allocation formula used by the Ohio 76154
Educational Telecommunications Network Commission unless a 76155
substitute formula is developed by the Chancellor in consultation 76156
with Ohio's qualified public educational television stations and 76157
educational radio stations. 76158

Of the foregoing appropriation item 235482, Content 76159
Development, Acquisition, and Distribution, up to \$199,712 in 76160
fiscal year 2013 shall be distributed by the Chancellor to Ohio's 76161
qualified radio reading services to support their operations. The 76162
funds shall be distributed pursuant to an allocation formula used 76163
by the Ohio Educational Telecommunications Network Commission 76164
unless a substitute formula is developed by the Chancellor in 76165
consultation with Ohio's qualified radio reading services. 76166

TECHNOLOGY INTEGRATION AND PROFESSIONAL DEVELOPMENT 76167

The foregoing appropriation item 235483, Technology 76168
Integration and Professional Development, shall be used by the 76169
Chancellor for the provision of staff development, hardware, 76170
software, telecommunications services, and information resources 76171
to support educational uses of technology in the classroom and at 76172
a distance and for professional development for teachers, 76173
administrators, and technology staff on the use of educational 76174
technology in qualifying public schools, including the State 76175
School for the Blind, the State School for the Deaf, and the 76176
Department of Youth Services. 76177

Of the foregoing appropriation item 235483, Technology 76178
Integration and Professional Development, up to \$1,691,701 in 76179
fiscal year 2013 shall be used by the Chancellor to contract with 76180
educational television to provide Ohio public schools with 76181
instructional resources and services with priority given to 76182
resources and services aligned with state academic content 76183
standards and such resources and services shall be based upon the 76184
advice and approval of the Chancellor, based on a formula used by 76185
the Ohio SchoolNet Commission unless and until a substitute 76186
formula is developed by the Chancellor in consultation with Ohio's 76187
educational technology agencies and noncommercial educational 76188
television stations. 76189

Of the foregoing appropriation item 235483, Technology 76190
Integration and Professional Development, up to \$2,560,970 in 76191
fiscal year 2013 shall be used to support the distance learning 76192
clearinghouse, pursuant to divisions (A) to (E) of this section. 76193

TELECOMMUNITY 76194

The foregoing appropriation item 235673, Telecommunity, shall 76195
be distributed by the Chancellor on a grant basis to eligible 76196
school districts to establish "distance learning" through 76197
interactive video technologies in the school district. Funds to 76198
administer the program shall be expended by the Board of Regents 76199

up to the amount specified. 76200

DISTANCE LEARNING 76201

The foregoing appropriation item 235674, Distance Learning, 76202
shall be distributed by the Chancellor on a grant basis to 76203
eligible school districts to establish "distance learning" in the 76204
school district. Per an agreement with Ameritech, school districts 76205
are eligible for funds if they are within an Ameritech service 76206
area. Funds to administer the program shall be expended by the 76207
Board of Regents up to the amount specified in the agreement with 76208
Ameritech. 76209

GATES FOUNDATION GRANTS 76210

The foregoing appropriation item 235678, Gates Foundation 76211
Grants, shall be administered by the Chancellor. 76212

DISTANCE LEARNING CLEARINGHOUSE 76213

(A) Notwithstanding anything to the contrary in sections 76214
3333.81 to 3333.88 of the Revised Code, the distance learning 76215
clearinghouse required to be established under those sections 76216
shall be located at the Ohio Resource Center for Mathematics, 76217
Science, and Reading administered by the College of Education and 76218
Human Ecology at The Ohio State University. The College shall 76219
provide access to its online repository of educational content to 76220
offer courses from multiple providers at competitive prices for 76221
Ohio students in grades kindergarten to twelve. 76222

(B) The College shall review the content of each course 76223
offered to assess the course's alignment with the academic 76224
standards adopted under division (A) of section 3301.079 of the 76225
Revised Code and shall publish its determination about the degree 76226
of alignment. 76227

(C) The College shall indicate, for each course offered, the 76228
academic credit that a student may reasonably expect to earn upon 76229

successful completion of the course. However, in accordance with 76230
section 3333.85 of the Revised Code, the school district or school 76231
in which the student is enrolled retains full authority to 76232
determine the credit awarded to the student. 76233

(D) As prescribed by section 3333.84 of the Revised Code, the 76234
fee charged for a course shall be set by the course provider. The 76235
College may retain a percentage of the fee to offset the cost of 76236
maintaining the course repository. 76237

(E) The College may establish policies to protect the 76238
proprietary interest in or intellectual property of the 76239
educational content and courses that are housed in the course 76240
repository. The College may require end users to agree to the 76241
terms of any such policies prior to accessing the repository. 76242

Sec. 371.60.80. (A) The Ohio Digital Learning Task Force is 76243
hereby established to develop a strategy for the expansion of 76244
digital learning that enables students to customize their 76245
education, produces cost savings, and meets the needs of Ohio's 76246
economy. The Task Force shall consist of the following members: 76247

(1) The Chancellor of the Ohio Board of Regents or the 76248
Chancellor's designee; 76249

(2) The Superintendent of Public Instruction or the 76250
Superintendent's designee; 76251

(3) The Director of the Governor's Office of 21st Century 76252
Education or the Director's designee; 76253

(4) Up to six members appointed by the Governor, who shall be 76254
representatives of school districts or community schools, 76255
established under Chapter 3314. of the Revised Code, that are 76256
high-performing of their type and have demonstrated the ability to 76257
incorporate technology into the classroom successfully; 76258

(5) A member appointed by the President of the Senate; 76259

(6) A member appointed by the Speaker of the House of Representatives. 76260
76261

(B) Members of the Task Force shall be appointed not later than sixty days after the effective date of this section. 76262
76263
Vacancies on the Task Force shall be filled in the same manner as the original appointments. Members shall serve without 76264
76265
compensation. 76266

(C) The Governor shall designate the chairperson of the Task Force. All meetings of the Task Force shall be held at the call of the chairperson. 76267
76268
76269

(D) The Task Force shall do all of the following: 76270

(1) Request information from textbook publishers about the development of digital textbooks and other new digital content distribution methods for use by primary, secondary, and post-secondary schools and institutions and examine that information; 76271
76272
76273
76274
76275

(2) Examine potential cost savings and efficiency of utilizing digital textbooks and other new digital content distribution methods in primary, secondary, and post-secondary schools and institutions; 76276
76277
76278
76279

(3) Examine potential academic benefits of utilizing digital textbooks and other new digital content distribution methods, including, but not limited to, the ability to individualize content to specific student learning styles, accessibility for individuals with disabilities, and the integration of formative and other online assessments; 76280
76281
76282
76283
76284
76285

(4) Examine digital content pilot programs and initiatives currently operating at primary, secondary, and post-secondary schools and institutions in Ohio, including, but not limited to, those financed in part with federal funds; 76286
76287
76288
76289

- (5) Examine any state-level initiatives to provide or facilitate use of digital content in primary, secondary, and post-secondary schools and institutions in Ohio. 76290
76291
76292
- (E) The Task Force shall make recommendations regarding all of the following: 76293
76294
- (1) The creation of high quality digital content and instruction in grades kindergarten to twelve for free access by public and nonpublic schools and students receiving home instruction; 76295
76296
76297
76298
- (2) High quality professional development for teachers and principals providing online instruction or blended learning programs; 76299
76300
76301
- (3) Funding strategies that create incentives for high performance, innovation, and options in course providers and delivery; 76302
76303
76304
- (4) Student assessment and accountability; 76305
- (5) Infrastructure to support digital learning; 76306
- (6) Mobile learning and mobile learning applications; 76307
- (7) The clearinghouse established under section 3333.82 of the Revised Code; 76308
76309
- (8) Ways to align the resources and digital learning initiatives of state agencies and offices; 76310
76311
- (9) Methods for removing redundancy and inefficiency in, and for providing coordination, of all digital learning programs, including the provision of free online instruction to public and nonpublic schools on a statewide basis; 76312
76313
76314
76315
- (10) Methods of addressing future changes in technology and learning. 76316
76317
- ~~(E)~~(F) Not later than March 1, 2012, the Task Force shall 76318

issue a report of its findings and recommendations to the 76319
Governor, the President of the Senate, and the Speaker of the 76320
House of Representatives. ~~Upon issuance of~~ After issuing its 76321
report, the Task Force shall monitor the implementation of its 76322
recommendations. Not later than June 30, 2012, the Task Force 76323
shall report to the Governor, the President of the Senate, and the 76324
Speaker of the House of Representatives whether digital learning 76325
is advancing in Ohio schools and submit any recommendations to 76326
further enhance the full deployment of useful digital learning 76327
programs and services. The Task Force shall cease to exist on June 76328
30, 2012. 76329

Sec. 373.10. DRC DEPARTMENT OF REHABILITATION AND CORRECTION 76330

General Revenue Fund 76331

| | | | | | | |
|------------|------------------------|----|-------------|----|-------------|-------|
| GRF 501321 | Institutional | \$ | 909,547,156 | \$ | 866,592,589 | 76332 |
| | Operations | | | | | |
| GRF 501403 | Prisoner Compensation | \$ | 8,599,255 | \$ | 8,599,255 | 76333 |
| GRF 501405 | Halfway House | \$ | 43,637,069 | \$ | 43,622,104 | 76334 |
| GRF 501406 | Lease Rental Payments | \$ | 42,863,100 | \$ | 104,301,500 | 76335 |
| GRF 501407 | Community | \$ | 25,859,382 | \$ | 25,839,390 | 76336 |
| | Nonresidential | | | | | |
| | Programs | | | | | |
| GRF 501408 | Community Misdemeanor | \$ | 14,906,800 | \$ | 14,906,800 | 76337 |
| | Programs | | | | | |
| GRF 501501 | Community Residential | \$ | 62,692,785 | \$ | 62,477,785 | 76338 |
| | Programs - CBCF | | | | | |
| GRF 502321 | Mental Health Services | \$ | 58,525,816 | \$ | 51,778,513 | 76339 |
| GRF 503321 | Parole and Community | \$ | 68,197,272 | \$ | 63,783,848 | 76340 |
| | Operations | | | | | |
| GRF 504321 | Administrative | \$ | 21,996,504 | \$ | 20,085,474 | 76341 |
| | Operations | | | | | |
| GRF 505321 | Institution Medical | \$ | 209,231,014 | \$ | 195,241,961 | 76342 |
| | Services | | | | | |

| | | | | |
|------------------------------------|---|------------------|--|-------|
| GRF 506321 | Institution Education Services | \$ 20,237,576 | \$ 18,086,492 | 76343 |
| GRF 507321 | Institution Recovery Services | \$ 5,786,109 | \$ 5,375,737 | 76344 |
| TOTAL GRF | General Revenue Fund | \$ 1,492,079,838 | \$ 1,480,691,448 | 76345 |
| General Services Fund Group | | | | 76346 |
| 1480 501602 | Services and Agricultural Institutional Services | \$ 3,579,250 | \$ 3,584,263 | 76347 |
| 2000 501607 | Ohio Penal Industries | \$ 38,000,000 | \$ 38,000,000 | 76348 |
| 4830 501605 | Property Receipts | \$ 182,723 | \$ 182,086 | 76349 |
| 4B00 501601 | Sewer Treatment Services | \$ 2,145,630 | 2,157,682 <u>2,057,682</u> | 76350 |
| 4D40 501603 | Prisoner Programs | \$ 14,900,000 | \$ 14,900,000 | 76351 |
| 4L40 501604 | Transitional Control | \$ 1,168,843 | 1,213,120 <u>1,113,120</u> | 76352 |
| 4S50 501608 | Education Services | \$ 2,376,041 | \$ 2,359,775 | 76353 |
| 5710 501606 | Training Academy Receipts | \$ 125,000 | \$ 125,000 | 76354 |
| 5930 501618 | Laboratory Services | \$ 6,665,137 | \$ 6,664,729 | 76355 |
| 5AF0 501609 | State and Non-Federal Awards | \$ 1,440,000 | \$ 1,440,000 | 76356 |
| 5H80 501617 | Offender Financial Responsibility | \$ 2,000,000 | \$ 2,000,000 | 76357 |
| 5L60 501611 | Information Technology Services | \$ 600,000 | 600,000 <u>350,000</u> | 76358 |
| TOTAL GSF | General Services Fund Group | \$ 73,182,624 | 73,226,655 <u>72,776,655</u> | 76359 |
| Federal Special Revenue Fund Group | | | | 76360 |
| 3230 501619 | Federal Grants | \$ 9,013,558 | \$ 9,180,703 | 76361 |
| TOTAL FED | Federal Special Revenue | | | 76362 |

| | | | | | |
|------------------------------|----|---------------|----|--------------------------|-------|
| Fund Group | \$ | 9,013,558 | \$ | 9,180,703 | 76363 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 1,574,276,020 | \$ | 1,563,098,806 | 76364 |
| | | | | <u>1,562,648,806</u> | |

TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL SENTENCING REFORMS 76365
76366

For the purposes of implementing criminal sentencing reforms, 76367
and notwithstanding any other provision of law to the contrary, 76368
the Director of Budget and Management, at the request of the 76369
Director of Rehabilitation and Correction, may transfer up to 76370
\$14,000,000 in appropriations, in each of fiscal years 2012 and 76371
2013, from appropriation item 501321, Institutional Operations, to 76372
any combination of appropriation items 501405, Halfway House; 76373
501407, Community Residential Programs; 501408, Community 76374
Misdemeanor Programs; and 501501, Community Residential Programs - 76375
CBCF. 76376

OHIO BUILDING AUTHORITY LEASE PAYMENTS 76377

The foregoing appropriation item 501406, Lease Rental 76378
Payments, shall be used to meet all payments at the times they are 76379
required to be made during the period from July 1, 2011, through 76380
June 30, 2013, by the Department of Rehabilitation and Correction 76381
to the Ohio Building Authority under the primary leases and 76382
agreements for those buildings made under Chapter 152. of the 76383
Revised Code. These appropriations are the source of funds pledged 76384
for bond service charges or obligations issued pursuant to Chapter 76385
152. of the Revised Code. 76386

OSU MEDICAL CHARGES 76387

Notwithstanding section 341.192 of the Revised Code, at the 76388
request of the Department of Rehabilitation and Correction, The 76389
Ohio State University Medical Center, including the James Cancer 76390
Hospital and Solove Research Institute and the Richard M. Ross 76391
Heart Hospital, shall provide necessary care to persons who are 76392

confined in state adult correctional facilities. The provision of 76393
 necessary care shall be billed to the Department at a rate not to 76394
 exceed the authorized reimbursement rate for the same service 76395
 established by the Department of Job and Family Services under the 76396
 Medical Assistance Program. 76397

CASH TRANSFER FROM INSTITUTIONAL SERVICES FUND TO OHIO PENAL 76398
INDUSTRIES FUND 76399

The Director of Budget and Management may transfer an amount 76400
not to exceed \$4,000,000 in cash in fiscal year 2013 from the 76401
Institutional Services Fund (Fund 1480) to the Ohio Penal 76402
Industries Fund (Fund 2000). 76403

Sec. 375.10. RSC REHABILITATION SERVICES COMMISSION 76404

General Revenue Fund 76405

GRF 415402 Independent Living \$ 252,000 \$ 252,000 76406
 Council

GRF 415406 Assistive Technology \$ 26,618 \$ 26,618 76407

GRF 415431 Office for People \$ 126,567 \$ 126,567 76408
 with Brain Injury

GRF 415506 Services for People \$ 12,777,884 \$ 12,777,884 76409
 with Disabilities

GRF 415508 Services for the Deaf \$ 28,000 \$ 28,000 76410

TOTAL GRF General Revenue Fund \$ 13,211,069 \$ 13,211,069 76411

General Services Fund Group 76412

4670 415609 Business Enterprise \$ 1,308,431 \$ 1,303,090 76413
 Operating Expenses

TOTAL GSF General Services 76414

Fund Group \$ 1,308,431 \$ 1,303,090 76415

Federal Special Revenue Fund Group 76416

3170 415620 Disability \$ 97,579,095 \$ ~~97,579,095~~ 76417
 Determination 87,579,095

| | | | | | | | |
|----------------------------------|--------|--|----|-------------|----|--|-------|
| 3790 | 415616 | Federal - Vocational Rehabilitation | \$ | 103,160,426 | \$ | 103,150,102 | 76418 |
| 3L10 | 415601 | Social Security Personal Care Assistance | \$ | 3,370,000 | \$ | 3,370,000 | 76419 |
| 3L10 | 415605 | Social Security Community Centers for the Deaf | \$ | 772,000 | \$ | 772,000 | 76420 |
| 3L10 | 415608 | Social Security Special Programs/Assistance | \$ | 1,521,406 | \$ | 1,520,184 | 76421 |
| 3L40 | 415612 | Federal Independent Living Centers or Services | \$ | 652,222 | \$ | 652,222 | 76422 |
| 3L40 | 415615 | Federal - Supported Employment | \$ | 929,755 | \$ | 929,755 | 76423 |
| 3L40 | 415617 | Independent Living/Vocational Rehabilitation Programs | \$ | 2,137,338 | \$ | 2,137,338 | 76424 |
| TOTAL FED Federal Special | | | | | | | 76425 |
| Revenue Fund Group | | | \$ | 210,122,242 | \$ | 210,110,696 <u>200,110,696</u> | 76426 |
| State Special Revenue Fund Group | | | | | | | 76427 |
| 4680 | 415618 | Third Party Funding | \$ | 10,802,589 | \$ | 10,802,589 | 76428 |
| 4L10 | 415619 | Services for Rehabilitation | \$ | 3,700,000 | \$ | 3,700,000 | 76429 |
| 4W50 | 415606 | Program Management Expenses | \$ | 11,636,730 | \$ | 11,587,201 | 76430 |
| TOTAL SSR State Special | | | | | | | 76431 |
| Revenue Fund Group | | | \$ | 26,139,319 | \$ | 26,089,790 | 76432 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 250,781,061 | \$ | 250,714,645 <u>240,714,645</u> | 76433 |

INDEPENDENT LIVING COUNCIL 76434

The foregoing appropriation item 415402, Independent Living 76435
Council, shall be used to fund the operations of the State 76436
Independent Living Council and to support state independent living 76437
centers and independent living services under Title VII of the 76438
Independent Living Services and Centers for Independent Living of 76439
the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 76440
U.S.C. 796d. 76441

Of the foregoing appropriation item 415402, Independent 76442
Living Council, \$67,662 in each fiscal year shall be used as state 76443
matching funds for vocational rehabilitation innovation and 76444
expansion activities. 76445

ASSISTIVE TECHNOLOGY 76446

The total amount of the foregoing appropriation item 415406, 76447
Assistive Technology, shall be provided to Assistive Technology of 76448
Ohio to provide grants and assistive technology services for 76449
people with disabilities in the State of Ohio. 76450

OFFICE FOR PEOPLE WITH BRAIN INJURY 76451

The foregoing appropriation item 415431, Office for People 76452
with Brain Injury, shall be used to plan and coordinate 76453
head-injury-related services provided by state agencies and other 76454
government or private entities, to assess the needs for such 76455
services, and to set priorities in this area. 76456

Of the foregoing appropriation item 415431, Office for People 76457
with Brain Injury, \$44,067 in each fiscal year shall be used as 76458
state matching funds to provide vocational rehabilitation services 76459
to eligible consumers. 76460

VOCATIONAL REHABILITATION SERVICES 76461

The foregoing appropriation item 415506, Services for People 76462
with Disabilities, shall be used as state matching funds to 76463

provide vocational rehabilitation services to eligible consumers. 76464

At the request of the Chancellor of the Board of Regents, the 76465
Director of Budget and Management may transfer any unexpended, 76466
unencumbered appropriation in fiscal year 2012 or fiscal year 2013 76467
from appropriation item 235502, Student Support Services, to 76468
appropriation item 415506, Services for People with Disabilities. 76469
Any appropriation so transferred shall be used by the Ohio 76470
Rehabilitation Services Commission to obtain additional federal 76471
matching funds to serve disabled students. 76472

SERVICES FOR THE DEAF 76473

The foregoing appropriation item 415508, Services for the 76474
Deaf, shall be used to provide grants to community centers for the 76475
deaf. 76476

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 76477

The foregoing appropriation item 415617, Independent 76478
Living/Vocational Rehabilitation Programs, shall be used to 76479
support vocational rehabilitation programs. 76480

SOCIAL SECURITY REIMBURSEMENT FUNDS 76481

Reimbursement funds received from the Social Security 76482
Administration, United States Department of Health and Human 76483
Services, for the costs of providing services and training to 76484
return disability recipients to gainful employment shall be 76485
expended from the Social Security Reimbursement Fund (Fund 3L10), 76486
to the extent funds are available, as follows: 76487

(A) Appropriation item 415601, Social Security Personal Care 76488
Assistance, to provide personal care services in accordance with 76489
section 3304.41 of the Revised Code; 76490

(B) Appropriation item 415605, Social Security Community 76491
Centers for the Deaf, to provide grants to community centers for 76492
the deaf in Ohio for services to individuals with hearing 76493

| | | | | | |
|--|----|-----------|----|-------------|-------|
| impairments; and | | | | | 76494 |
| (C) Appropriation item 415608, Social Security Special | | | | | 76495 |
| Programs/Assistance, to provide vocational rehabilitation services | | | | | 76496 |
| to individuals with severe disabilities who are Social Security | | | | | 76497 |
| beneficiaries, to enable them to achieve competitive employment. | | | | | 76498 |
| This appropriation item shall also be used to pay a portion of | | | | | 76499 |
| indirect costs of the Personal Care Assistance Program and the | | | | | 76500 |
| Independent Living Programs as mandated by federal OMB Circular | | | | | 76501 |
| A-87. | | | | | 76502 |
| | | | | | |
| PROGRAM MANAGEMENT EXPENSES | | | | | 76503 |
| The foregoing appropriation item 415606, Program Management | | | | | 76504 |
| Expenses, shall be used to support the administrative functions of | | | | | 76505 |
| the commission related to the provision of vocational | | | | | 76506 |
| rehabilitation, disability determination services, and ancillary | | | | | 76507 |
| programs. | | | | | 76508 |
| | | | | | |
| Sec. 379.10. RDF REVENUE DISTRIBUTION FUNDS | | | | | 76509 |
| | | | | | |
| Volunteer Firefighters' Dependents Fund | | | | | 76510 |
| 7085 800985 Volunteer Firemen's | \$ | 300,000 | \$ | 300,000 | 76511 |
| Dependents Fund | | | | | |
| TOTAL 085 Volunteer Firefighters' | | | | | 76512 |
| Dependents Fund | \$ | 300,000 | \$ | 300,000 | 76513 |
| Agency Fund Group | | | | | 76514 |
| 4P80 001698 Cash Management | \$ | 3,100,000 | \$ | 3,100,000 | 76515 |
| Improvement Fund | | | | | |
| 5JG0 110633 Gross Casino Revenue | \$ | 5,778,617 | \$ | 138,882,294 | 76516 |
| County Fund | | | | | |
| 5JH0 110634 Gross Casino Revenue | \$ | 3,852,412 | \$ | 92,588,196 | 76517 |
| County Student Fund | | | | | |
| 5JJ0 110636 Gross Casino Revenue | \$ | 566,531 | \$ | 13,615,911 | 76518 |
| Host City Fund | | | | | |

| | | | | | | | |
|-----------|---------------------------------|---------------------------------|----|--------------------------|----|--------------------------|-------|
| 5JK0 | 875610 | Ohio State Racing | \$ | 339,919 | \$ | 8,169,547 | 76519 |
| | | Commission Fund | | | | | |
| 5JL0 | 038629 | Problem Casino | \$ | 226,612 | \$ | 5,446,364 | 76520 |
| | | Gambling and | | | | | |
| | | Addictions Fund | | | | | |
| 5JN0 | 055654 | Ohio Law Enforcement | \$ | 226,612 | \$ | 5,446,364 | 76521 |
| | | Training Fund | | | | | |
| 6080 | 001699 | Investment Earnings | \$ | 50,000,000 | \$ | 150,000,000 | 76522 |
| 7062 | 110962 | Resort Area Excise | \$ | 1,000,000 | \$ | 1,000,000 | 76523 |
| | | Tax | | | | | |
| 7063 | 110963 | Permissive Tax | \$ | 1,904,500,000 | \$ | 1,980,700,000 | 76524 |
| | | Distribution | | | | | |
| 7067 | 110967 | School District | \$ | 317,000,000 | \$ | 330,000,000 | 76525 |
| | | Income Tax | | | | | |
| TOTAL AGY | Agency Fund Group | | \$ | 2,286,590,703 | \$ | 2,728,948,676 | 76526 |
| | | | | <u>2,285,797,560</u> | | <u>2,709,886,401</u> | |
| | | Holding Account Redistribution | | | | | 76527 |
| R045 | 110617 | International Fuel | \$ | 40,000,000 | \$ | 40,000,000 | 76528 |
| | | Tax Distribution | | | | | |
| TOTAL 090 | Holding Account | | | | | | 76529 |
| | Redistribution Fund | | | | | | |
| | Revenue Distribution Fund Group | | \$ | 40,000,000 | \$ | 40,000,000 | 76530 |
| 7049 | 038900 | Indigent Drivers | \$ | 2,200,000 | \$ | 2,200,000 | 76531 |
| | | Alcohol Treatment | | | | | |
| 7050 | 762900 | International | \$ | 30,000,000 | \$ | 30,000,000 | 76532 |
| | | Registration Plan | | | | | |
| | | Distribution | | | | | |
| 7051 | 762901 | Auto Registration | \$ | 539,000,000 | \$ | 539,000,000 | 76533 |
| | | Distribution | | | | | |
| 7054 | 110954 | Local Government | \$ | 16,000,000 | \$ | 11,000,000 | 76534 |
| | | Property Tax | | | | | |
| | | Replacement - Utility | | | | | |
| 7060 | 110960 | Gasoline Excise Tax | \$ | 393,000,000 | \$ | 395,000,000 | 76535 |

| | | | | | | |
|--------------------------------|--------|-----------------------|-----------------------------|-----------------------------|--|-------|
| | | Fund | | | | |
| 7065 | 110965 | Public Library Fund | \$ 354,000,000 | \$ 345,000,000 | | 76536 |
| 7066 | 800966 | Undivided Liquor | \$ 14,100,000 | \$ 14,100,000 | | 76537 |
| | | Permits | | | | |
| 7068 | 110968 | State and Local | \$ 193,000,000 | \$ 196,000,000 | | 76538 |
| | | Government Highway | | | | |
| | | Distribution | | | | |
| 7069 | 110969 | Local Government Fund | \$ 577,000,000 | \$ 348,000,000 | | 76539 |
| 7081 | 110981 | Local Government | \$ 291,000,000 | \$ 181,000,000 | | 76540 |
| | | Property Tax | | | | |
| | | Replacement-Business | | | | |
| 7082 | 110982 | Horse Racing Tax | \$ 100,000 | \$ 100,000 | | 76541 |
| 7083 | 700900 | Ohio Fairs Fund | \$ 1,400,000 | \$ 1,400,000 | | 76542 |
| TOTAL RDF Revenue Distribution | | | | | | 76543 |
| Fund Group | | | \$ 2,410,800,000 | \$ 2,062,800,000 | | 76544 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ 4,737,690,703 | \$ 4,832,048,676 | | 76545 |
| | | | <u>4,736,897,560</u> | <u>4,812,986,401</u> | | |

ADDITIONAL APPROPRIATIONS 76546

Appropriation items in this section shall be used for the 76547
purpose of administering and distributing the designated revenue 76548
distribution funds according to the Revised Code. If it is 76549
determined that additional appropriations are necessary for this 76550
purpose, such amounts are hereby appropriated. 76551

GENERAL REVENUE FUND TRANSFERS 76552

Notwithstanding any provision of law to the contrary, in 76553
fiscal year 2012 and fiscal year 2013, the Director of Budget and 76554
Management may transfer from the General Revenue Fund to the Local 76555
Government Tangible Property Tax Replacement Fund (Fund 7081) in 76556
the Revenue Distribution Fund Group, those amounts necessary to 76557
reimburse local taxing units under section 5751.22 of the Revised 76558
Code. Also, in fiscal year 2012 and fiscal year 2013, the Director 76559
of Budget and Management may make temporary transfers from the 76560

General Revenue Fund to ensure sufficient balances in the Local 76561
Government Tangible Property Tax Replacement Fund (Fund 7081) and 76562
to replenish the General Revenue Fund for such transfers. 76563

Sec. 387.10. SFC SCHOOL FACILITIES COMMISSION 76564

General Revenue Fund 76565

GRF 230908 Common Schools \$ 150,604,900 \$ ~~341,919,400~~ 76566
General Obligation 329,919,400
Debt Service

TOTAL GRF General Revenue Fund \$ 150,604,900 \$ ~~341,919,400~~ 76567
329,919,400

State Special Revenue Fund Group 76568

5E30 230644 Operating Expenses \$ 8,950,000 \$ 8,550,000 76569

TOTAL SSR State Special Revenue 76570

Fund Group \$ 8,950,000 \$ 8,550,000 76571

TOTAL ALL BUDGET FUND GROUPS \$ 159,554,900 \$ ~~350,469,400~~ 76572
338,469,400

Sec. 403.10. TAX DEPARTMENT OF TAXATION 76574

General Revenue Fund 76575

GRF 110321 Operating Expenses \$ 73,500,000 \$ ~~73,550,000~~ 76576
72,814,500

GRF 110404 Tobacco Settlement \$ 200,000 \$ ~~200,000~~ 76577
Enforcement 198,000

GRF 110412 Child Support \$ 15,804 \$ ~~15,804~~ 15,646 76578
Administration

GRF 110901 Property Tax \$ 610,900,000 \$ 616,000,000 76579
Allocation - Taxation

TOTAL GRF General Revenue Fund \$ 684,615,804 \$ ~~689,765,804~~ 76580
689,028,146

General Services Fund Group 76581

2280 110628 Tax Reform System \$ 13,638,008 \$ ~~13,642,176~~ 76582

| | | | | | | |
|------------|-----------------|--|----|------------|------------------------------------|-------|
| | | Implementation | | | <u>13,505,754</u> | |
| 4330 | 110602 | Tape File Account | \$ | 197,802 | \$ 197,878 | 76583 |
| | | | | | <u>195,899</u> | |
| 5AP0 | 110632 | Discovery Project | \$ | 2,445,799 | \$ 2,445,657 | 76584 |
| | | | | | <u>2,421,200</u> | |
| 5BW0 | 110630 | Tax Amnesty Promotion and Administration | \$ | 2,500,000 | \$ 0 | 76585 |
| 5CZ0 | 110631 | Vendor's License Application | \$ | 250,000 | \$ 250,000 | 76586 |
| 5N50 | 110605 | Municipal Income Tax Administration | \$ | 339,798 | \$ 339,975 | 76587 |
| | | | | | <u>336,575</u> | |
| 5N60 | 110618 | Kilowatt Hour Tax Administration | \$ | 150,000 | \$ 150,000 | 76588 |
| | | | | | <u>148,500</u> | |
| 5V80 | 110623 | Property Tax Administration | \$ | 12,195,733 | \$ 12,099,303 | 76589 |
| | | | | | <u>11,978,310</u> | |
| 5W40 | 110625 | Centralized Tax Filing and Payment | \$ | 200,000 | \$ 200,000 | 76590 |
| | | | | | <u>198,000</u> | |
| 5W70 | 110627 | Exempt Facility Administration | \$ | 50,000 | \$ 50,000 <u>49,500</u> | 76591 |
| TOTAL | GSF | General Services | | | | 76592 |
| Fund Group | | | \$ | 31,967,140 | \$ 29,374,989 | 76593 |
| | | | | | <u>29,083,738</u> | |
| State | Special Revenue | Fund Group | | | | 76594 |
| 4350 | 110607 | Local Tax Administration | \$ | 19,028,339 | \$ 19,225,941 | 76595 |
| | | | | | <u>19,033,682</u> | |
| 4360 | 110608 | Motor Vehicle Audit | \$ | 1,474,081 | \$ 1,474,353 | 76596 |
| | | | | | <u>1,459,609</u> | |
| 4370 | 110606 | Litter/Natural Resource Tax Administration | \$ | 20,000 | \$ 20,000 <u>19,800</u> | 76597 |
| 4380 | 110609 | School District Income Tax | \$ | 5,859,041 | \$ 5,860,650 | 76598 |
| | | | | | <u>5,802,044</u> | |
| 4C60 | 110616 | International | \$ | 689,296 | \$ 689,308 | 76599 |

| | | | | | |
|---|----------------------|----|---------------|----------------------|--|
| | Registration Plan | | | <u>682,415</u> | |
| 4R60 110610 | Tire Tax | \$ | 245,462 | \$ | 246,660 76600 |
| | Administration | | | <u>244,193</u> | |
| 5V70 110622 | Motor Fuel Tax | \$ | 5,384,254 | \$ | 5,086,236 76601 |
| | Administration | | | <u>5,035,374</u> | |
| 6390 110614 | Cigarette Tax | \$ | 1,384,217 | \$ | 1,384,314 76602 |
| | Enforcement | | | <u>1,370,471</u> | |
| 6420 110613 | Ohio Political Party | \$ | 500,000 | \$ | 500,000 76603 |
| | Distributions | | | | |
| 6880 110615 | Local Excise Tax | \$ | 782,630 | \$ | 782,843 76604 |
| | Administration | | | <u>775,015</u> | |
| TOTAL SSR State Special Revenue | | | | | 76605 |
| Fund Group | | \$ | 35,367,320 | \$ | 35,270,305 76606 |
| | | | | <u>34,922,603</u> | |
| Agency Fund Group | | | | | 76607 |
| 4250 110635 | Tax Refunds | \$ | 1,546,800,000 | \$ | 1,546,800,000 76608 |
| 7095 110995 | Municipal Income Tax | \$ | 21,000,000 | \$ | 21,000,000 76609 |
| TOTAL AGY Agency Fund Group | | | | | \$ 1,567,800,000 \$ 1,567,800,000 76610 |
| Holding Account Redistribution Fund Group | | | | | 76611 |
| R010 110611 | Tax Distributions | \$ | 50,000 | \$ | 50,000 76612 |
| R011 110612 | Miscellaneous Income | \$ | 50,000 | \$ | 50,000 76613 |
| Tax Receipts | | | | | |
| TOTAL 090 Holding Account | | | | | 76614 |
| Redistribution Fund Group | | \$ | 100,000 | \$ | 100,000 76615 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | \$ 2,319,850,264 \$ 2,322,311,098 76616 |
| | | | | <u>2,320,934,487</u> | |
| HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK | | | | | 76617 |
| The foregoing appropriation item 110901, Property Tax | | | | | 76618 |
| Allocation - Taxation, is hereby appropriated to pay for the | | | | | 76619 |
| state's costs incurred due to the Homestead Exemption, the | | | | | 76620 |
| Manufactured Home Property Tax Rollback, and the Property Tax | | | | | 76621 |
| Rollback. The Tax Commissioner shall distribute these funds | | | | | 76622 |

directly to the appropriate local taxing districts, except for 76623
school districts, notwithstanding the provisions in sections 76624
321.24 and 323.156 of the Revised Code, which provide for payment 76625
of the Homestead Exemption, the Manufactured Home Property Tax 76626
Rollback, and Property Tax Rollback by the Tax Commissioner to the 76627
appropriate county treasurer and the subsequent redistribution of 76628
these funds to the appropriate local taxing districts by the 76629
county auditor. 76630

Upon receipt of these amounts, each local taxing district 76631
shall distribute the amount among the proper funds as if it had 76632
been paid as real property taxes. Payments for the costs of 76633
administration shall continue to be paid to the county treasurer 76634
and county auditor as provided for in sections 319.54, 321.26, and 76635
323.156 of the Revised Code. 76636

Any sums, in addition to the amounts specifically 76637
appropriated in appropriation item 110901, Property Tax Allocation 76638
- Taxation, for the Homestead Exemption, the Manufactured Home 76639
Property Tax Rollback, and the Property Tax Rollback payments, 76640
which are determined to be necessary for these purposes, are 76641
hereby appropriated. 76642

TAX AMNESTY PROMOTION AND ADMINISTRATION 76643

The foregoing appropriation item 110630, Tax Amnesty 76644
Promotion and Administration, shall be used to pay expenses 76645
incurred to promote and administer the tax amnesty program to be 76646
conducted from May 1, 2012, through June 15, 2012, by the 76647
Department of Taxation pursuant to Section 757.40 of ~~this act~~ Am. 76648
Sub. H.B. 153 of the 129th General Assembly. 76649

MUNICIPAL INCOME TAX 76650

The foregoing appropriation item 110995, Municipal Income 76651
Tax, shall be used to make payments to municipal corporations 76652
under section 5745.05 of the Revised Code. If it is determined 76653

that additional appropriations are necessary to make such 76654
payments, such amounts are hereby appropriated. 76655

TAX REFUNDS 76656

The foregoing appropriation item 110635, Tax Refunds, shall 76657
be used to pay refunds under section 5703.052 of the Revised Code. 76658
If it is determined that additional appropriations are necessary 76659
for this purpose, such amounts are hereby appropriated. 76660

INTERNATIONAL REGISTRATION PLAN AUDIT 76661

The foregoing appropriation item 110616, International 76662
Registration Plan, shall be used under section 5703.12 of the 76663
Revised Code for audits of persons with vehicles registered under 76664
the International Registration Plan. 76665

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT 76666

Of the foregoing appropriation item 110607, Local Tax 76667
Administration, the Tax Commissioner may disburse funds, if 76668
available, for the purposes of paying travel expenses incurred by 76669
members of Ohio's delegation to the Streamlined Sales Tax Project, 76670
as appointed under section 5740.02 of the Revised Code. Any travel 76671
expense reimbursement paid for by the Department of Taxation shall 76672
be done in accordance with applicable state laws and guidelines. 76673

CENTRALIZED TAX FILING AND PAYMENT FUND 76674

The Director of Budget and Management, under a plan submitted 76675
by the Tax Commissioner, or as otherwise determined by the 76676
Director of Budget and Management, shall set a schedule to 76677
transfer cash from the General Revenue Fund to the credit of the 76678
Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers 76679
of cash shall not exceed \$400,000 in the biennium. 76680

TOBACCO SETTLEMENT ENFORCEMENT 76681

The foregoing appropriation item 110404, Tobacco Settlement 76682
Enforcement, shall be used by the Tax Commissioner to pay costs 76683

| | | | | |
|---|-----------------------|---------------|-----------------------|-------|
| incurred in the enforcement of divisions (F) and (G) of section | | | | 76684 |
| 5743.03 of the Revised Code. | | | | 76685 |
| Sec. 411.10. DVS DEPARTMENT OF VETERANS SERVICES | | | | 76686 |
| General Revenue Fund | | | | 76687 |
| GRF 900321 | Veterans' Homes | \$ 27,369,946 | \$ 27,369,946 | 76688 |
| GRF 900402 | Hall of Fame | \$ 107,075 | \$ 107,075 | 76689 |
| GRF 900408 | Department of | \$ 1,901,823 | 1,901,823 | 76690 |
| | Veterans Services | | <u>2,001,823</u> | |
| GRF 900901 | Persian Gulf, | \$ 5,486,600 | \$ 10,112,100 | 76691 |
| | Afghanistan, and Iraq | | | |
| | Compensation Debt | | | |
| | Service | | | |
| TOTAL GRF General Revenue Fund | | \$ 34,865,444 | 39,490,944 | 76692 |
| | | | <u>39,590,944</u> | |
| General Services Fund Group | | | | 76693 |
| 4840 900603 | Veterans' Homes | \$ 305,806 | \$ 312,458 | 76694 |
| | Services | | | |
| TOTAL GSF General Services Fund | | \$ 305,806 | \$ 312,458 | 76695 |
| Group | | | | |
| Federal Special Revenue Fund Group | | | | 76696 |
| 3680 900614 | Veterans Training | \$ 769,500 | \$ 754,377 | 76697 |
| 3740 900606 | Troops to Teachers | \$ 136,786 | \$ 133,461 | 76698 |
| 3BX0 900609 | Medicare Services | \$ 2,500,000 | \$ 2,490,169 | 76699 |
| 3L20 900601 | Veterans' Homes | \$ 23,455,379 | \$ 23,476,269 | 76700 |
| | Operations - Federal | | | |
| TOTAL FED Federal Special Revenue | | | | 76701 |
| Fund Group | | \$ 26,861,665 | \$ 26,854,276 | 76702 |
| State Special Revenue Fund Group | | | | 76703 |
| 4E20 900602 | Veterans' Homes | \$ 10,117,680 | \$ 10,319,078 | 76704 |
| | Operating | | | |

| | | | | | | |
|---|-----------------------|----|------------|----|------------------------|-------|
| 6040 900604 | Veterans' Homes | \$ | 347,598 | \$ | 398,731 | 76705 |
| | Improvement | | | | | |
| TOTAL SSR State Special Revenue | | | | | | 76706 |
| Fund Group | | \$ | 10,465,278 | \$ | 10,717,809 | 76707 |
| Persian Gulf, Afghanistan, and Iraq Compensation Fund Group | | | | | | 76708 |
| 7041 900615 | Veteran Bonus Program | \$ | 1,605,410 | \$ | 1,147,703 | 76709 |
| | - Administration | | | | | |
| 7041 900641 | Persian Gulf, | \$ | 25,425,000 | \$ | 24,300,000 | 76710 |
| | Afghanistan, and Iraq | | | | | |
| | Compensation | | | | | |
| TOTAL 041 Persian Gulf, | | | | | | 76711 |
| Afghanistan, and Iraq | | | | | | 76712 |
| Compensation Fund Group | | | | | | 76713 |
| | | \$ | 27,030,410 | \$ | 25,447,703 | 76713 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | 76714 |
| | | \$ | 99,528,603 | \$ | 102,823,190 | |
| | | | | | <u>102,923,190</u> | |

PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL 76715
OBLIGATION DEBT SERVICE 76716

The foregoing appropriation item 900901, Persian Gulf, 76717
Afghanistan and Iraq Compensation Debt Service, shall be used to 76718
pay all debt service and related financing costs during the period 76719
from July 1, 2011, through June 30, 2013, on obligations issued 76720
for Persian Gulf, Afghanistan and Iraq Conflicts Compensation 76721
purposes under sections 151.01 and 151.12 of the Revised Code. 76722

Sec. 415.10. DYS DEPARTMENT OF YOUTH SERVICES 76723

| | | | | | | |
|----------------------|-----------------------|----|-------------|----|-------------|-------|
| General Revenue Fund | | | | | | 76724 |
| GRF 470401 | RECLAIM Ohio | \$ | 168,716,967 | \$ | 162,362,228 | 76725 |
| GRF 470412 | Lease Rental Payments | \$ | 10,221,800 | \$ | 27,230,100 | 76726 |
| GRF 470510 | Youth Services | \$ | 16,702,728 | \$ | 16,702,728 | 76727 |
| GRF 472321 | Parole Operations | \$ | 10,830,019 | \$ | 10,583,118 | 76728 |
| GRF 477321 | Administrative | \$ | 12,222,051 | \$ | 11,855,389 | 76729 |
| | Operations | | | | | |

| | | | | | |
|------------------------------------|----|-------------|----|----------------------------|-------|
| TOTAL GRF General Revenue Fund | \$ | 218,693,565 | \$ | 228,733,563 | 76730 |
| General Services Fund Group | | | | | 76731 |
| 1750 470613 Education | \$ | 8,160,277 | \$ | 8,151,056 | 76732 |
| Reimbursement | | | | <u>6,251,056</u> | |
| 4790 470609 Employee Food Service | \$ | 150,000 | \$ | 150,000 | 76733 |
| 4A20 470602 Child Support | \$ | 450,000 | \$ | 400,000 | 76734 |
| 4G60 470605 General Operational | \$ | 125,000 | \$ | 125,000 | 76735 |
| Funds | | | | | |
| 5BN0 470629 E-Rate Program | \$ | 535,000 | \$ | 535,000 | 76736 |
| TOTAL GSF General Services | | | | | 76737 |
| Fund Group | \$ | 9,420,277 | \$ | 9,361,056 | 76738 |
| | | | | <u>7,461,056</u> | |
| Federal Special Revenue Fund Group | | | | | 76739 |
| 3210 470601 Education | \$ | 1,774,469 | \$ | 1,517,840 | 76740 |
| 3210 470603 Juvenile Justice | \$ | 300,000 | \$ | 300,000 | 76741 |
| Prevention | | | | | |
| 3210 470606 Nutrition | \$ | 1,747,432 | \$ | 1,704,022 | 76742 |
| | | | | <u>1,400,000</u> | |
| 3210 470610 Rehabilitation | \$ | 36,000 | \$ | 36,000 <u>0</u> | 76743 |
| Programs | | | | | |
| 3210 470614 Title IV-E | \$ | 6,000,000 | \$ | 6,000,000 | 76744 |
| Reimbursements | | | | | |
| 3BY0 470635 Federal Juvenile | \$ | 56,471 | \$ | 2,000 | 76745 |
| Programs FFY 07 | | | | | |
| 3BZ0 470636 Federal Juvenile | \$ | 82,000 | \$ | 1,618 | 76746 |
| Programs FFY 08 | | | | | |
| 3CP0 470638 Federal Juvenile | \$ | 500,000 | \$ | 300,730 | 76747 |
| Programs FFY 09 | | | | | |
| 3CR0 470639 Federal Juvenile | \$ | 800,000 | \$ | 479,900 | 76748 |
| Programs FFY 10 | | | | | |
| 3FB0 470641 Federal Juvenile | \$ | 135,000 | \$ | 600,000 | 76749 |
| Programs FFY 11 | | | | | |

| | | | | | | |
|-----------------------------------|---|----|------------|----|--|-------|
| 3FC0 470642 | Federal Juvenile Programs FFY 12 | \$ | 0 | \$ | 135,000 | 76750 |
| 3V50 470604 | Juvenile Justice/Delinquency Prevention | \$ | 2,010,000 | \$ | 2,000,000 | 76751 |
| TOTAL FED Federal Special Revenue | | | | | | 76752 |
| Fund Group | | \$ | 13,441,372 | \$ | 13,077,110 <u>12,737,088</u> | 76753 |
| State Special Revenue Fund Group | | | | | | 76754 |
| 1470 470612 | Vocational Education | \$ | 762,126 | \$ | 758,210 | 76755 |
| TOTAL SSR State Special Revenue | | | | | | 76756 |
| Fund Group | | \$ | 762,126 | \$ | 758,210 | 76757 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | 76758 |
| | | | | | 251,929,939 <u>249,689,917</u> | |

COMMUNITY PROGRAMS 76759

For purposes of implementing juvenile sentencing reforms, and 76760
notwithstanding any provision of law to the contrary, the 76761
Department of Youth Services may use up to forty-five per cent of 76762
the unexpended, unencumbered balance of the portion of 76763
appropriation item 470401, RECLAIM Ohio, that is allocated to 76764
juvenile correctional facilities in each fiscal year to expand 76765
Targeted RECLAIM, the Behavioral Health Juvenile Justice 76766
Initiative, and other evidence-based community programs. 76767

OHIO BUILDING AUTHORITY LEASE PAYMENTS 76768

The foregoing appropriation item 470412, Lease Rental 76769
Payments, shall be used to meet all payments at the times they are 76770
required to be made for the period from July 1, 2011, through June 76771
30, 2013, by the Department of Youth Services to the Ohio Building 76772
Authority under the leases and agreements for facilities made 76773
under Chapter 152. of the Revised Code. This appropriation is the 76774
source of funds pledged for bond service charges on related 76775
obligations issued pursuant to Chapter 152. of the Revised Code. 76776

EDUCATION REIMBURSEMENT 76777

The foregoing appropriation item 470613, Education 76778
Reimbursement, shall be used to fund the operating expenses of 76779
providing educational services to youth supervised by the 76780
Department of Youth Services. Operating expenses include, but are 76781
not limited to, teachers' salaries, maintenance costs, and 76782
educational equipment. This appropriation item may be used for 76783
capital expenses related to the education program. 76784

EMPLOYEE FOOD SERVICE AND EQUIPMENT 76785

Notwithstanding section 125.14 of the Revised Code, the 76786
foregoing appropriation item 470609, Employee Food Service, may be 76787
used to purchase any food operational items with funds received 76788
into the fund from reimbursements for state surplus property. 76789

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES 76790

In collaboration with the county family and children first 76791
council, the juvenile court of that county that receives 76792
allocations from one or both of the foregoing appropriation items 76793
470401, RECLAIM Ohio, and 470510, Youth Services, may transfer 76794
portions of those allocations to a flexible funding pool as 76795
authorized by the section of ~~this act~~ Am. Sub. H.B. 153 of the 76796
129th General Assembly titled "FAMILY AND CHILDREN FIRST FLEXIBLE 76797
FUNDING POOL." 76798

Sec. 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 76799
BALANCES OF OPERATING APPROPRIATIONS 76800

(A) An unexpended balance of an operating appropriation or 76801
reappropriation that a state agency lawfully encumbered prior to 76802
the close of a fiscal year is hereby reappropriated on the first 76803
day of July of the following fiscal year from the fund from which 76804
it was originally appropriated or reappropriated for the following 76805
period and shall remain available only for the purpose of 76806

discharging the encumbrance: 76807

(1) For an encumbrance for personal services, maintenance, 76808
equipment, or items for resale, other than an encumbrance for an 76809
item of special order manufacture not available on term contract 76810
or in the open market or for reclamation of land or oil and gas 76811
wells, for a period of not more than five months from the end of 76812
the fiscal year; 76813

(2) For an encumbrance for an item of special order 76814
manufacture not available on term contract or in the open market, 76815
for a period of not more than five months from the end of the 76816
fiscal year or, with the written approval of the Director of 76817
Budget and Management, for a period of not more than twelve months 76818
from the end of the fiscal year; 76819

(3) For an encumbrance for reclamation of land or oil and gas 76820
wells, for a period ending when the encumbered appropriation is 76821
expended or for a period of two years, whichever is less; 76822

(4) For an encumbrance for any other expense, for such period 76823
as the Director approves, provided such period does not exceed two 76824
years. 76825

(B) Any operating appropriations for which unexpended 76826
balances are reappropriated beyond a five-month period from the 76827
end of the fiscal year by division (A)(2) of this section shall be 76828
reported to the Controlling Board by the Director of Budget and 76829
Management by the thirty-first day of December of each year. The 76830
report on each such item shall include the item, the cost of the 76831
item, and the name of the vendor. The report shall be updated on a 76832
quarterly basis for encumbrances remaining open. 76833

(C) Upon the expiration of the reappropriation period set out 76834
in division (A) of this section, a reappropriation made by this 76835
section lapses, and the Director of Budget and Management shall 76836
cancel the encumbrance of the unexpended reappropriation not later 76837

than the end of the weekend following the expiration of the 76838
reappropriation period. 76839

(D) Notwithstanding division (C) of this section, with the 76840
approval of the Director of Budget and Management, an unexpended 76841
balance of an encumbrance that was reappropriated on the first day 76842
of July by this section for a period specified in division (A)(3) 76843
or (4) of this section and that remains encumbered at the close of 76844
the fiscal biennium is hereby reappropriated on the first day of 76845
July of the following fiscal biennium from the fund from which it 76846
was originally appropriated or reappropriated for the applicable 76847
period specified in division (A)(3) or (4) of this section and 76848
shall remain available only for the purpose of discharging the 76849
encumbrance. 76850

(E) The Director of Budget and Management may correct 76851
accounting errors committed by the staff of the Office of Budget 76852
and Management, such as re-establishing encumbrances or 76853
appropriations cancelled in error, during the cancellation of 76854
operating encumbrances in November and of nonoperating 76855
encumbrances in December. 76856

(F) The Director of Budget and Management may at any time 76857
correct accounting errors committed by the staff of a state 76858
institution of higher education, as defined in section 3345.011 of 76859
the Revised Code, such as reestablishing prior year nonoperating 76860
encumbrances canceled or modified in error. The reestablished 76861
encumbrance amounts are hereby appropriated. 76862

(G) If the Controlling Board approved a purchase, that 76863
approval remains in effect so long as the appropriation used to 76864
make that purchase remains encumbered. 76865

Sec. 521.70. OVERSIGHT OF FEDERAL STIMULUS FUNDS 76866

(A) The Office of Internal Auditing within the Office of 76867

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.~~

(B) When, as part of its compliance with the federal American Recovery and Reinvestment Act of 2009 requirements to monitor and measure the effectiveness of funds for which the state of Ohio is the prime recipient, and for which reporting authority has not been delegated to a ~~sub-recipient~~ subrecipient, the Office of

Budget and Management submits quarterly reports to the federal 76899
government, the Office of Budget and Management shall also submit 76900
those reports to the President of the Senate, Minority Leader of 76901
the Senate, Speaker of the House of Representatives, Minority 76902
Leader of the House of Representatives, and Chairs and ranking 76903
members of the committees in the Senate and House of 76904
Representatives handling finance and appropriations. The Office of 76905
Budget and Management shall continue to submit quarterly reports 76906
to the legislature for the duration of the period in which the 76907
state of Ohio is required to make reports to the federal 76908
government concerning Ohio's use of the federal American Recovery 76909
and Reinvestment Act of 2009 funds. 76910

Sec. 701.40. (A) There is hereby created the Ohio Housing 76911
Study Committee with the purpose of formulating a comprehensive 76912
review of the policies and results of the Ohio Housing Finance 76913
Agency, its programs and its working relationships to ensure that 76914
all Agency programs are evaluated by an objective process to 76915
ensure all Ohioans receive optimal and measurable benefits 76916
afforded to them through the authority of the Agency. 76917

(B) The Committee shall do all of the following: 76918

(1) Perform a comprehensive review of Chapter 175. of the 76919
Revised Code to determine the relevance of the chapter and 76920
determine whether it should be formally reviewed or amended by the 76921
General Assembly, up to and including appropriate legislative 76922
oversight and accountability; 76923

(2) Review the Agency's relationships to ensure an equitable 76924
and level playing field regarding its single- and multi-family 76925
housing programs; 76926

(3) Review the Agency's policy leadership and the measurable 76927
economic impact and other effects of its programs; 76928

(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~~ December 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 the President of the Senate shall determine the chairperson of the Committee.

(E) The Committee shall meet on a reasonable basis at the discretion of the chairperson.

(F) All reasonable expenses incurred by the Committee in 76959
carrying out its responsibilities shall be paid by Ohio Housing 76960
Finance Agency funds. In addition to reasonable expenses, the 76961
Committee shall have the discretion to allocate Agency funds to 76962
contract with the Auditor of State for services rendered in 76963
relation to the Committee carrying out its responsibilities, 76964
including financial- and performance-based audits and other 76965
services. The Auditor of State may contract with an independent 76966
auditor. 76967

The Committee may also contract with other independent 76968
entities for services rendered in relation to the Committee 76969
carrying out its responsibilities. Expenditures to pay for the 76970
services of the Auditor of State, independent auditor, or other 76971
services shall not exceed two hundred thousand dollars. 76972

No entity contracting with the Committee for services 76973
rendered shall have a financial or vested interest in the Ohio 76974
Housing Finance Agency, its affiliates, or its nonprofit partners. 76975

Section 601.41. That existing Sections 205.10, 207.10, 76976
207.10.80, 207.20.10, 207.20.30, 207.20.90, 209.10, 209.20, 76977
209.30, 211.10, 215.10, 215.20, 223.10, 229.10, 243.10, 261.10.40, 76978
261.10.70, 261.20.10, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 76979
261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 76980
261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 76981
263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 76982
267.10.40, 267.30.20, 267.30.40, 279.10, 283.10, 283.20, 283.30, 76983
291.10, 307.10, 309.10, 309.30.30, 309.30.33, 309.30.53, 76984
309.35.73, 315.10, 327.10, 335.10, 337.10, 343.10, 343.40, 365.10, 76985
367.10, 369.10, 371.10, 371.50.61, 371.60.70, 371.60.80, 373.10, 76986
375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 503.50, 521.70, 76987
and 701.40 of Am. Sub. H.B. 153 of the 129th General Assembly are 76988
hereby repealed. 76989

Section 601.43. That Section 247.10 of Am. Sub. H.B. 153 of 76990
the 129th General Assembly, as amended by Sub. H.B. 319 of the 76991
129th General Assembly, be amended to read as follows: 76992

Sec. 247.10. CEB CONTROLLING BOARD 76993

General Revenue Fund 76994

GRF 911404 Mandate Assistance \$ 2,750,000 \$ 0 76995

GRF 911441 Ballot Advertising \$ 475,000 \$ 475,000 76996

Costs

TOTAL GRF General Revenue Fund \$ 3,225,000 \$ 475,000 76997

General Services Fund Group 76998

5KM0 911614 CB Emergency Purposes \$ 10,000,000 \$ 10,000,000 76999

TOTAL GSF General Services Fund \$ 10,000,000 \$ 10,000,000 77000

Group

TOTAL ALL BUDGET FUND GROUPS \$ 13,225,000 \$ 10,475,000 77001

FEDERAL SHARE 77002

In transferring appropriations to or from appropriation items 77003
that have federal shares identified in this act, the Controlling 77004
Board shall add or subtract corresponding amounts of federal 77005
matching funds at the percentages indicated by the state and 77006
federal division of the appropriations in this act. Such changes 77007
are hereby appropriated. 77008

REDISTRICTING IMPLEMENTATION 77009

The foregoing appropriation item 911404, Mandate Assistance, 77010
shall be used in a method prescribed by the Secretary of State and 77011
transferred by the Director of Budget and Management to implement 77012
this act, which includes remapping and reprecincting counties, and 77013
reprogramming database systems and voting machines. At the end of 77014
fiscal year 2012, an amount equal to the unexpended, unencumbered 77015
portion of appropriation item 911404, Mandate Assistance, is 77016
hereby reappropriated in fiscal year 2013 for the same purpose. 77017

DISASTER SERVICES 77018

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Disaster Services Fund (5E20) to a fund and appropriation item used by the Department of Public Safety to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding to fund the State Disaster Relief Program for disasters that have been declared by the Governor, and the State Individual Assistance Program for disasters that have been declared by the Governor and the federal Small Business Administration. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

Fund 5E20 shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriations to any fund and appropriation item for the payment of state agency disaster relief program expenses for disasters declared by the Governor, if the Director of Budget and Management determines that sufficient funds exist.

Upon the request of the Department of Public Safety, the Controlling Board may release up to \$3,000,000 for Blanchard River flood mitigation projects.

BALLOT ADVERTISING COSTS 77045

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 77049
050621, Statewide Ballot Advertising, in order to pay for the cost 77050
of public notices associated with statewide ballot initiatives. 77051

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS 77052
ELIGIBILITY 77053

A state agency director shall request that the Controlling 77054
Board increase the amount of the agency's capital appropriations 77055
if the director determines such an increase is necessary for the 77056
agency to receive and use funds under the federal American 77057
Recovery and Reinvestment Act of 2009. The Controlling Board may 77058
increase the capital appropriations pursuant to the request up to 77059
the exact amount necessary under the federal act if the Board 77060
determines it is necessary for the agency to receive and use those 77061
federal funds. 77062

Section 601.44. That existing Section 247.10 of Am. Sub. H.B. 77063
153 of the 129th General Assembly, as amended by Sub. H.B. 319 of 77064
the 129th General Assembly, is hereby repealed. 77065

Section 601.46. That Sections 261.10 and 261.20.93 of Am. 77066
Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. 77067
H.B. 371 of the 129th General Assembly, be amended to read as 77068
follows: 77069

Sec. 261.10. DEV ~~DEPARTMENT OF~~ DEVELOPMENT SERVICES AGENCY 77070
General Revenue Fund 77071
GRF 195401 Thomas Edison Program \$ 14,820,354 \$ 0 77072
GRF 195402 Coal ~~Development~~ \$ 260,983 \$ 261,205 77073
Office Research
Operating
GRF 195404 Small Business \$ 1,565,770 \$ 0 77074
Development

| | | | | | | | |
|------------|-------------------|---|---------------|--------------|---------------|-------------------------------|-------|
| GRF | 195405 | Minority Business Enterprise Division | \$ | 1,118,528 | \$ | 0 | 77075 |
| GRF | 195407 | Travel and Tourism | \$ | 5,000,000 | \$ | 0 <u>5,000,000</u> | 77076 |
| GRF | 195412 | Rapid Outreach Grants | \$ | 9,000,000 | \$ | 0 | 77077 |
| GRF | 195415 | Strategie Business Investment Division and Regional Offices <u>Development Services</u> | \$ | 4,500,000 | \$ | 0 <u>2,413,387</u> | 77078 |
| GRF | 195416 | Governor's Office of Appalachia | \$ | 3,700,000 | \$ | 3,700,000 <u>0</u> | 77079 |
| GRF | 195422 | Technology Action | \$ | 547,341 | \$ | 0 | 77080 |
| GRF | 195426 | Clean Ohio Implementation | \$ | 468,365 | \$ | 0 <u>468,365</u> | 77081 |
| GRF | 195432 | Global Markets | \$ | 3,500,000 | \$ | 0 | 77082 |
| GRF | 195434 | Industrial Training Grants | \$ | 10,000,000 | \$ | 0 | 77083 |
| GRF | 195497 | CDBG Operating Match | \$ | 1,015,000 | \$ | 0 <u>1,015,000</u> | 77084 |
| GRF | 195501 | Appalachian Local Development Districts | \$ | 391,482 | \$ | 391,482 <u>0</u> | 77085 |
| GRF | 195502 | Appalachian Regional Commission Dues | \$ | 195,000 | \$ | 195,000 <u>0</u> | 77086 |
| GRF | 195528 | Economic Development Projects | \$ | 0 | \$ | 26,943,518 | 77087 |
| <u>GRF</u> | <u>195530</u> | <u>Economic Gardening</u> <u>Pilot Program</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>250,000</u> | 77088 |
| <u>GRF</u> | <u>195532</u> | <u>Technology Programs</u> <u>and Grants</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>13,547,341</u> | 77089 |
| <u>GRF</u> | <u>195533</u> | <u>Business Assistance</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>5,899,465</u> | 77090 |
| <u>GRF</u> | <u>195535</u> | <u>Appalachia Assistance</u> | <u>\$</u> | <u>0</u> | <u>\$</u> | <u>4,286,482</u> | 77091 |
| GRF | 195901 | Coal Research & Development General Obligation Debt Service | \$ | 7,861,100 | \$ | 5,577,700 | 77092 |

| | | | | | | | |
|------------------------------------|--------------------------------|---|----|-------------|----|--|----------------|
| GRF | 195905 | Third Frontier Research & Development General Obligation Debt Service | \$ | 29,323,300 | \$ | 63,640,300 | 77093 |
| GRF | 195912 | Job Ready Site Development General Obligation Debt Service | \$ | 9,859,200 | \$ | 15,680,500 | 77094 |
| TOTAL GRF | General Revenue Fund | | \$ | 103,126,423 | \$ | 116,389,705 <u>118,039,745</u> | 77095 |
| General Services Fund Group | | | | | | | 77096 |
| 1350 | 195684 | Supportive <u>Development Services</u> <u>Operations</u> | \$ | 11,700,000 | \$ | 11,700,000 | 77097 |
| 4W10 | 195646 | Minority Business Enterprise Loan | \$ | 2,500,000 | \$ | 2,500,000 | 77098 |
| 5AD0 | 195633 | Legacy Projects | \$ | 15,000,000 | \$ | 15,000,000 <u>18,600,000</u> | 77099 |
| 5AD0 | 195677 | Economic Development Contingency | \$ | 10,000,000 | \$ | 0 | 77100 |
| 5W50 | 195690 | Travel and Tourism Cooperative Projects | \$ | 50,000 | \$ | 50,000 | 77101 |
| 6850 | 195636 | Direct Cost Recovery <u>Development Services</u> <u>Reimbursable</u> Expenditures | \$ | 750,000 | \$ | 750,000 | 77102 |
| TOTAL GSF | General Services Fund Group | | \$ | 40,000,000 | \$ | 30,000,000 <u>33,600,000</u> | 77103 77104 |
| Federal Special Revenue Fund Group | | | | | | | 77105 |
| 3080 | 195602 | Appalachian Regional | \$ | 475,000 | \$ | 475,000 | 77106 |

| | | | | | | | |
|-------------|---------------|---|----|-------------|----|-------------------------|-------|
| | | Commission | | | | | |
| 3080 | 195603 | Housing and Urban Development <u>Assistance Programs</u> | \$ | 6,000,000 | \$ | 6,000,000 | 77107 |
| 3080 | 195605 | Federal Projects | \$ | 85,028,606 | \$ | 85,470,106 0 | 77108 |
| 3080 | 195609 | Small Business Administration <u>Grants</u> | \$ | 6,438,143 | \$ | 5,511,381 | 77109 |
| 3080 | 195618 | Energy Federal Grants | \$ | 38,000,000 | \$ | 3,400,000 | 77110 |
| <u>3080</u> | <u>195670</u> | <u>Home Weatherization</u> <u>Program</u> | \$ | 0 | \$ | <u>72,670,106</u> | 77111 |
| <u>3080</u> | <u>195671</u> | <u>Brownfield</u> <u>Redevelopment</u> | \$ | 0 | \$ | <u>6,800,000</u> | 77112 |
| <u>3080</u> | <u>195672</u> | <u>Manufacturing</u> <u>Extension Partnership</u> | \$ | 0 | \$ | <u>6,000,000</u> | 77113 |
| 3350 | 195610 | Energy Conservation and Emerging <u>Technology Programs</u> | \$ | 1,100,000 | \$ | 1,100,000 | 77114 |
| 3AE0 | 195643 | Workforce Development Initiatives | \$ | 16,300,000 | \$ | 16,300,000 | 77115 |
| 3DB0 | 195642 | Federal Stimulus - Energy Efficiency & Conservation Block Grants | \$ | 3,000,000 | \$ | 42,485 | 77116 |
| 3EG0 | 195608 | Federal Energy <u>Sector</u> Training <u>Grants</u> | \$ | 5,000,000 | \$ | 1,344,056 | 77117 |
| 3K80 | 195613 | Community Development Block Grant | \$ | 76,795,818 | \$ | 65,210,000 | 77118 |
| 3K90 | 195611 | Home Energy Assistance Block Grant | \$ | 115,743,608 | \$ | 115,743,608 | 77119 |
| 3K90 | 195614 | HEAP Weatherization | \$ | 22,000,000 | \$ | 22,000,000 | 77120 |
| 3L00 | 195612 | Community Services Block Grant | \$ | 27,240,217 | \$ | 27,240,217 | 77121 |

| | | | | | | | |
|----------------------------------|---------------|--|----|-------------|----|------------------------|-------|
| 3V10 | 195601 | HOME Program | \$ | 40,000,000 | \$ | 40,000,000 | 77122 |
| TOTAL FED | | Federal Special Revenue | | | | | 77123 |
| Fund Group | | | \$ | 443,121,392 | \$ | 389,836,853 | 77124 |
| State Special Revenue Fund Group | | | | | | | 77125 |
| 4500 | 195624 | Minority Business Bonding Program Administration | \$ | 160,110 | \$ | 159,069 | 77126 |
| 4510 | 195625 | Economic Development Financing Operating | \$ | 3,000,000 | \$ | 3,000,000 0 | 77127 |
| <u>4510</u> | <u>195649</u> | <u>Business Assistance Programs</u> | \$ | 0 | \$ | <u>3,700,800</u> | 77128 |
| 4F20 | 195639 | State Special Projects | \$ | 180,437 | \$ | 180,436 | 77129 |
| 4F20 | 195676 | Marketing Initiatives | \$ | 5,000,000 | \$ | 0 | 77130 |
| 4F20 | 195699 | Utility Provided Funds Community Assistance | \$ | 500,000 | \$ | 500,000 | 77131 |
| 4S00 | 195630 | Tax Incentive Programs | \$ | 650,800 | \$ | 650,800 0 | 77132 |
| 5CG0 | 195679 | Alternative Fuel Transportation | \$ | 750,000 | \$ | 750,000 | 77133 |
| 5HJ0 | 195604 | Motion Picture Tax Credit Program | \$ | 50,000 | \$ | 50,000 0 | 77134 |
| 5HR0 | 195526 | Ohio Incumbent Workforce Job Training Vouchers | \$ | 20,000,000 | \$ | 30,000,000 | 77135 |
| 5HR0 | 195622 | Defense Development Assistance | \$ | 5,000,000 | \$ | 5,000,000 | 77136 |
| <u>5JR0</u> | <u>195635</u> | <u>Redevelopment Program Support</u> | \$ | 0 | \$ | <u>100,000</u> | 77137 |
| 5JR0 | 195656 | New Market Tax Credit Program | \$ | 50,000 | \$ | 50,000 0 | 77138 |
| 5KD0 | 195621 | Brownfield Stormwater Loan | \$ | 50,000 | \$ | 50,000 0 | 77139 |
| 5KN0 | 195640 | Local Government Innovation | \$ | 175,000 | \$ | 44,825,000 | 77140 |

| | | | | | | | |
|--|--------|--|----|-------------|----|--|-------|
| 5LK0 | 195655 | <u>Workforce Development Programs</u> | \$ | 0 | \$ | <u>10,000,000</u> | 77141 |
| 5M40 | 195659 | Low Income Energy Assistance (<u>USF</u>) | \$ | 245,000,000 | \$ | 245,000,000 | 77142 |
| 5M50 | 195660 | Advanced Energy <u>Loan</u> Programs | \$ | 8,000,000 | \$ | 0 | 77143 |
| 5W60 | 195691 | International Trade Cooperative Projects | \$ | 160,000 | \$ | 160,000 | 77144 |
| 6170 | 195654 | Volume Cap Administration | \$ | 94,397 | \$ | 92,768 | 77145 |
| 6460 | 195638 | Low- and Moderate-Income Housing Trust Fund | \$ | 53,000,000 | \$ | 53,000,000 | 77146 |
| TOTAL SSR State Special Revenue Fund Group | | | | | | | 77147 |
| | | | \$ | 341,820,744 | \$ | 383,468,073 <u>393,468,073</u> | 77148 |
| Facilities Establishment Fund Group | | | | | | | 77149 |
| 5S90 | 195628 | Capital Access Loan Program | \$ | 1,500,000 | \$ | 1,500,000 | 77150 |
| 7009 | 195664 | Innovation Ohio | \$ | 15,000,000 | \$ | 15,000,000 | 77151 |
| 7010 | 195665 | Research and Development | \$ | 22,000,000 | \$ | 22,000,000 | 77152 |
| 7037 | 195615 | Facilities Establishment | \$ | 50,000,000 | \$ | 50,000,000 | 77153 |
| TOTAL 037 Facilities Establishment Fund Group | | | | | | | 77154 |
| | | | \$ | 88,500,000 | \$ | 88,500,000 | 77155 |
| Clean Ohio Revitalization Fund | | | | | | | 77156 |
| 7003 | 195663 | Clean Ohio Operating <u>Program</u> | \$ | 950,000 | \$ | 950,000 | 77157 |
| TOTAL 7003 Clean Ohio Revitalization Fund | | | | | | | 77158 |
| | | | \$ | 950,000 | \$ | 950,000 | 77159 |
| Third Frontier Research & Development Fund Group | | | | | | | 77159 |

| | | | | | | | |
|------------------------------|--------|--|----|---------------|----|--|-------|
| 7011 | 195686 | Third Frontier Operating | \$ | 1,149,750 | \$ | 1,149,750 | 77160 |
| 7011 | 195687 | Third Frontier Research & Development Projects | \$ | 183,850,250 | \$ | 133,850,250 | 77161 |
| 7014 | 195620 | Third Frontier Operating - Tax | \$ | 1,700,000 | \$ | 1,700,000 | 77162 |
| 7014 | 195692 | Research & Development Taxable Bond Projects | \$ | 38,300,000 | \$ | 38,300,000 | 77163 |
| TOTAL 011 | | Third Frontier Research & Development Fund Group | \$ | 225,000,000 | \$ | 175,000,000 | 77164 |
| | | Job Ready Site Development Fund Group | | | | | 77165 |
| 7012 | 195688 | Job Ready Site Operating Program | \$ | 800,000 | \$ | 800,000 | 77166 |
| TOTAL 012 | | Job Ready Site Development Fund Group | \$ | 800,000 | \$ | 800,000 | 77167 |
| | | Tobacco Master Settlement Agreement Fund Group | | | | | 77168 |
| M087 | 195435 | Biomedical Research and Technology Transfer | \$ | 1,999,224 | \$ | 1,999,224 | 77169 |
| TOTAL TSF | | Tobacco Master Settlement Agreement Fund Group | \$ | 1,999,224 | \$ | 1,999,224 | 77170 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 1,245,317,783 | \$ | 1,186,943,855 <u>1,202,193,895</u> | 77171 |

Sec. 261.20.93. LOCAL GOVERNMENT INNOVATION FUND 77173

The foregoing appropriation item 195640, Local Government 77174
 Innovation, shall be used for the purposes of making loans and 77175
 grants to political subdivisions under the Local Government 77176
 Innovation Program in accordance with sections 189.01 to 189.10 of 77177
 the Revised Code. Of the foregoing appropriation item 195640, 77178

Local Government Innovation, up to \$175,000 in fiscal year 2012 77179
and \$175,000 in fiscal year 2013 shall be used for administrative 77180
costs incurred by the ~~Department of Development~~ Services Agency. 77181

On the effective date of this amendment, or as soon as 77182
possible thereafter, the Director of Budget and Management shall 77183
transfer \$175,000 in cash from the General Revenue Fund to the 77184
Local Government Innovation Fund (Fund 5KN0). On July 1, 2012, or 77185
as soon as possible thereafter, the Director of Budget and 77186
Management shall transfer \$44,825,000 in cash from the General 77187
Revenue Fund to the Local Government Innovation Fund (Fund 5KN0). 77188

Section 601.47. That existing Sections 261.10 and 261.20.93 77189
of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by 77190
Sub. H.B. 371 of the 129th General Assembly, are hereby repealed. 77191

Section 601.50. That Section 4 of Sub. S.B. 171 of the 129th 77192
General Assembly be amended to read as follows: 77193

Sec. 4. The following agencies are retained under division 77194
(D) of section 101.83 of the Revised Code and expire on December 77195
31, 2016: 77196

| AGENCY NAME | REVISED CODE OR UNCODIFIED SECTION | |
|--|--|-------|
| Academic Distress Commission | 3302.10 | 77198 |
| Advisory Board of Governor's Office of Faith-Based and Community Initiatives | 107.12 | 77199 |
| Advisory Board to Assist and Advise in the Operation of the Ohio Center for Autism and Low Incidence | 3323.33, 3323.34 | 77200 |
| Advisory Council on Amusement Ride Safety | 1711.51, 1711.52 | 77201 |
| Advisory Council of Directors for Prison Labor | 5145.162 | 77202 |
| Advisory Council for Wild, Scenic, or | 1547.84 | 77203 |

| | | |
|---|--|-------|
| Recreational River Area(s) | | |
| Advisory Committee on Livestock Exhibitions | 901.71 | 77204 |
| Agricultural Commodity Marketing Programs | 924.07 | 77205 |
| Operating Committees | | |
| Agricultural Commodity Marketing Programs | 924.14 | 77206 |
| Coordinating Committee | | |
| Alternative Energy Advisory Committee | 4928.64(D) | 77207 |
| AMBER Alert Advisory Committee | 5502.521 | 77208 |
| Apprenticeship Council | Chapter 4139. | 77209 |
| Armory Board of Control | 5911.09, 5911.12 | 77210 |
| Automated Title Processing Board | 4505.09(C)(1) | 77211 |
| Backflow Advisory Board | 3703.21 | 77212 |
| Banking Commission | 1123.01 | 77213 |
| Board of Directors of the Great Lakes Protection Fund | 1506.22 (6161.04) | 77214 |
| Board of Directors of the Medical Liability Underwriting Association Stabilization Fund | 3929.631 | 77215 |
| Board of Directors of the Ohio Appalachian Center for Higher Education | 3333.58 | 77216 |
| Board of Directors of the Ohio Health Reinsurance Program | 3924.08 - 3924.11 | 77217 |
| Board of Governors of the Commercial Insurance Joint Underwriting Association | 3930.03 | 77218 |
| Board of Governors of the Medical Liability Underwriting Association | 3929.64 | 77219 |
| Board of Voting Machines Examiners | 3506.05 | 77220 |
| Budget Planning and Management Commission | Section 509.10, H.B. 1, 128th G.A. | 77221 |
| Brain Injury Advisory Committee | 3304.231 | 77222 |
| Bureau of Workers' Compensation Board of Directors | 4121.12 | 77223 |
| Capitol Square Review and Advisory Board | 105.41 | 77224 |

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|--|-----------------------|-------|
| Child Care Advisory Council | 5104.08 | 77225 |
| Child Support Guideline Advisory Council | 3119.024 | 77226 |
| Children's Trust Fund Board | 3109.15 - 3109.17 | 77227 |
| Citizen's Advisory Council | 5123.092, 5123.093 | 77228 |
| Clean Ohio Trail Advisory Board | 1519.06 | 77229 |
| Coastal Resources Advisory Council | 1506.12 | 77230 |
| Commission on African-American Males | 4112.12, 4112.13 | 77231 |
| Commission on Hispanic-Latino Affairs | 121.31 | 77232 |
| Commission on Minority Health | 3701.78 | 77233 |
| Committee on Prescriptive Governance | 4723.49 - 4723.492 | 77234 |
| Commodity Advisory Commission | 926.32 | 77235 |
| Consumer Advisory Committee to the Rehabilitation Services Commission | 3304.24 | 77236 |
| Continuing Education Committee | 109.80(B) | 77237 |
| Council on Alcohol and Drug Addiction Services | 3793.09 | 77238 |
| Council on Unreclaimed Strip Mined Lands | 1513.29 | 77239 |
| County Sheriff's Standard Car Marking and Uniform Commission | 311.25 - 311.27 | 77240 |
| Credential Review Board | 3319.65 | 77241 |
| Credit Union Council | 1733.329 | 77242 |
| Criminal Sentencing Advisory Committee | 181.22 | 77243 |
| Data Collection and Analysis Group | 3727.32 | 77244 |
| Dentist Loan Repayment Advisory Board | 3702.92 | 77245 |
| Department Advisory Council(s) | 107.18, 121.13 | 77246 |
| Development Financing Advisory Council | 122.40, 122.41 | 77247 |
| Early Childhood Advisory Council | 3301.90 | 77248 |
| Education Commission of the States (Interstate Compact for Education) | 3301.48, 3301.49 | 77249 |
| Education Management Information System Advisory Board | 3301.0713 | 77250 |

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| Educator Standards Board | 3319.60 | 77251 |
| Electrical Safety Inspector Advisory Committee | 3783.08 | 77252 |
| Emergency Response Commission | 3750.02 | 77253 |
| Engineering Experiment Station Advisory Committee | 3335.27 | 77254 |
| Environmental Education Council | 3745.21 | 77255 |
| Environmental Protection Agency Advisory Board(s) | 121.13, 3704.03, 3745.01 | 77256 |
| eTech Ohio Commission | 3353.02 - 3353.04 | 77257 |
| Ex-Offender Reentry Coalition | 5120.07 | 77258 |
| Farmland Preservation Advisory Board | 901.23 | 77259 |
| Financial Planning and Supervision Commission(s) for Municipal Corporation, County, or Township | 118.05 | 77260 |
| Financial Planning and Supervision Commission for a school district | 3316.05 | 77261 |
| Forestry Advisory Council | 1503.40 | 77262 |
| Governance Authority for a State University or College | 3345.75 | 77263 |
| Governor's Council on People with Disabilities | 3303.41 | 77264 |
| Governor's Policy Information Working Group | Section 313, H.B. 420, 127th G.A. | 77265 |
| Governor's Residence Advisory Commission | 107.40 | 77266 |
| Grain Marketing Program Operating Committee | 924.20 - 924.30 | 77267 |
| Great Lakes Commission (Great Lakes Basin Compact) | 6161.01 | 77268 |
| Gubernatorial Transition Committee | 107.29, 126.26 | 77269 |
| Help Me Grow Advisory Council | 3701.611 | 77270 |
| Hemophilia Advisory Subcommittee of the Medically Handicapped Children's Medical Advisory Council | 3701.0210 | 77271 |
| Homeland Security Advisory Council | 5502.011(E) | 77272 |
| Hospital Measures Advisory Council | 3727.31 | 77273 |
| Housing Trust Fund Advisory Committee | 174.06 | 77274 |

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| Industrial Commission Nominating Council | 4121.04 | 77275 |
| Industrial Technology and Enterprise Advisory Council | 122.29, 122.30 | 77276 |
| Infant Hearing Screening Subcommittee | 3701.507 | 77277 |
| Infection Control Group | 3727.312(D) | 77278 |
| Insurance Agent Education Advisory Council | 3905.483 | 77279 |
| Interstate Rail Passenger Advisory Council | 4981.35 | 77280 |
| Joint Select Committee on Volume Cap | 133.021 | 77281 |
| Labor-Management Government Advisory Council | 4121.70 | 77282 |
| Legislative Programming Committee of the Ohio Government Telecommunications Service | 3353.07 | 77283 |
| Legislative Task Force on Redistricting, Reapportionment, and Demographic Research | 103.51 | 77284 |
| Maternity and Newborn Advisory Council | 3711.20, 3711.21 | 77285 |
| Medically Handicapped Children's Medical Advisory Council | 3701.025 | 77286 |
| Midwest Interstate Passenger Rail Compact Commission | 4981.361 | 77287 |
| Milk Sanitation Board | 917.03 - 917.032 | 77288 |
| Mine Subsidence Insurance Governing Board | 3929.51 | 77289 |
| Minority Development Financing Advisory Board | 122.72, 122.73 | 77290 |
| Multi-Agency Radio Communications System (MARCS) Steering Committee | Section 15.02, H.B. 640, 123rd G.A. | 77291 |
| National Museum of Afro-American History and Culture Planning Committee | 149.303 | 77292 |
| New African Immigrants Commission | 4112.31, 4112.32 | 77293 |
| Ohio Accountability Task Force | 3302.021(E) | 77294 |
| Ohio Advisory Council for the Aging | 173.03 | 77295 |
| Ohio Agriculture License Plate Scholarship Fund Board | 901.90 | 77296 |
| Ohio Arts Council | Chapter 3379. | 77297 |
| Ohio Business Gateway Steering Committee | 5703.57 | 77298 |

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| Ohio Cemetery Dispute Resolution Commission | 4767.05, 4767.06 | 77299 |
| Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils | 4112.04(B)(4) | 77300 |
| Ohio Commercial Market Assistance Plan Executive Committee | 3930.02 | 77301 |
| Ohio Commission on Dispute Resolution and Conflict Management | 179.02 - 179.04 | 77302 |
| Ohio Commission on Fatherhood | 5101.34 | 77303 |
| Ohio Community Service Council | 121.40 - 121.404 | 77304 |
| Ohio Council for Interstate Adult Offender Supervision | 5149.22 | 77305 |
| Ohio Cultural Facilities Commission | Chapter 3383. | 77306 |
| Ohio Cystic Fibrosis Legislative Task Force | 101.38 | 77307 |
| Ohio Developmental Disabilities Council | 5123.35 | 77308 |
| Ohio Expositions Commission | 991.02 | 77309 |
| Ohio Family and Children First Cabinet Council | 121.37 | 77310 |
| Ohio Geographically Referenced Information Program Council | 125.901, 125.902 | 77311 |
| Ohio Geology Advisory Council | 1501.11 | 77312 |
| Ohio Grape Industries Committee | 924.51 - 924.55 | 77313 |
| Ohio Historic Site Preservation Advisory Board | 149.301 | 77314 |
| Ohio Historical Society Board of Trustees | 149.30 | 77315 |
| Ohio Judicial Conference | 105.91 - 105.97 | 77316 |
| Ohio Lake Erie Commission | 1506.21 | 77317 |
| Ohio Legislative Commission on the Education and Preservation of State History | Section 701.05, H.B. 1, 128th G.A. | 77318 |
| Ohio Medical Quality Foundation | 3701.89 | 77319 |
| Ohio Parks and Recreation Council | 1541.40 | 77320 |
| Ohio Peace Officer Training Commission | 109.71, 109.72 | 77321 |
| Ohio Private Investigation and Security Services Commission | 4749.021, 4743.01 | 77322 |
| Ohio Public Defender Commission | 120.01 - 120.03 | 77323 |

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| Ohio Public Library Information Network Board of Trustees | 3375.65, 3375.66 | 77324 |
| Ohio Quarter Horse Development Commission | 3769.086 | 77325 |
| Ohio Small Government Capital Improvements Commission | 164.02(C)(D) | 77326 |
| Ohio Soil and Water Conservation Commission | 1515.02 | 77327 |
| Ohio Standardbred Development Commission | 3769.085 | 77328 |
| Ohio Subrogation Rights Commission | 2323.44 | 77329 |
| Ohio Thoroughbred Racing Advisory Committee | 3769.084 | 77330 |
| Ohio Transportation Finance Commission | 5531.12(B) to (D) | 77331 |
| Ohio Tuition Trust Authority | 3334.03, 3334.08 | 77332 |
| Ohio University College of Osteopathic Medicine Advisory Committee | 3337.10, 3337.11 | 77333 |
| Ohio Vendors Representative Committee | 3304.34, 20 USC 107 | 77334 |
| Ohio War Orphans Scholarship Board | 5910.02 - 5910.06 | 77335 |
| Ohio Water Advisory Council | 1521.031 | 77336 |
| Ohio Water Resources Council Advisory Group | 1521.19 | 77337 |
| Ohio Water Resources Council | 1521.19 | 77338 |
| Oil and Gas Commission | 1509.35 | 77339 |
| Operating Committee of the Oil and Gas Marketing Program | 1510.06, 1510.11 | 77340 |
| Organized Crime Investigations Commission | 177.01 | 77341 |
| Pharmacy and Therapeutics Committee of the Department of Job and Family Services | 5111.084 | 77342 |
| Physician Assistant Policy Committee of the State Medical Board | 4730.05, 4730.06 | 77343 |
| Physician Loan Repayment Advisory Board | 3702.81 | 77344 |
| Power Siting Board | 4906.02 | 77345 |
| Prequalification Review Board | 5525.07 | 77346 |
| Private Water Systems Advisory Council | 3701.346 | 77347 |

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| Public Health Council | 3701.33, 3701.34 | 77348 |
| Public Utilities Commission Nominating Council | 4901.021 | 77349 |
| Public Utility Property Tax Study Committee | 5727.85(K) | 77350 |
| Radiation Advisory Council | 3748.20 | 77351 |
| Reclamation Commission | 1513.05 | 77352 |
| Reclamation Forfeiture Fund Advisory Board | 1513.182 | 77353 |
| Recreation and Resources Commission | 1501.04 | 77354 |
| Recycling and Litter Prevention Advisory Council | 1502.04 | 77355 |
| School and Ministerial Lands Divestiture Committee | 501.041 | 77356 |
| Savings and Loan Associations and Savings Banks Board | 1181.16 | 77357 |
| Second Chance Trust Fund Advisory Committee | 2108.35 | 77358 |
| Service Coordination Workgroup | Section 751.20, H.B. 1, 128th G.A. | 77359 |
| Ski Tramway Board | 4169.02 | 77360 |
| Small Business Stationary Source Technical and Environmental Compliance Assistance Council | 3704.19 | 77361 |
| Solid Waste Management Advisory Council | 3734.51 | 77362 |
| Special Commission to Consider the Suspension of Local Government Officials | 3.16 | 77363 |
| Speed to Scale Task Force | Section 375.60.80, H.B. 119, 128th G.A. | 77364 |
| State Agency Coordinating Group | 1521.19 | 77365 |
| State Audit Committee | 126.46 | 77366 |
| State Council of Uniform State Laws | 105.21 - 105.27 | 77367 |
| State Criminal Sentencing Commission | 181.22 - 181.26 | 77368 |
| State Fire Council | 3737.81 | 77369 |
| State Library Board | 3375.01 | 77370 |
| State Victims Assistance Advisory Council | 109.91(B) and (C) | 77371 |

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| Statewide Consortium of County Law Library | 3375.481 | 77372 |
| Resource Boards | | |
| STEM Committee | 3326.02 | 77373 |
| Student Tuition Recovery Authority | 3332.081 | 77374 |
| Sunset Review Committee | 101.84 - 101.87 | 77375 |
| Tax Credit Authority | 122.17(M) | 77376 |
| Technical Advisory Committee to Assist Director of the Ohio Coal Development Office | 1551.35 | 77377 |
| Technical Advisory Council on Oil and Gas | 1509.38 | 77378 |
| Transportation Review Advisory Council | 5512.07 - 5512.09 | 77379 |
| Unemployment Compensation Advisory Council | 4141.08 | 77380 |
| Unemployment Compensation Review Commission | 4141.06 | 77381 |
| Veterans Advisory Committee | 5902.02(K) | 77382 |
| Volunteer Fire Fighters' Dependents Fund Boards (private volunteer) | 146.02 - 146.06 | 77383 |
| Volunteer Fire Fighters' Dependents Fund Boards (public) | 146.02 - 146.06 | 77384 |
| Water and Sewer Commission | 1525.11(C) | 77385 |
| Waterways Safety Council | 1547.73 | 77386 |
| Wildlife Council | 1531.03 - 1531.05 | 77387 |
| Workers' Compensation Board of Directors Nominating Committee | 4121.123 | 77388 |

Section 601.51. That existing Section 4 of Sub. S.B. 171 of the 129th General Assembly is hereby repealed. 77389
77390

Section 610.10. That Section 3 of Am. Sub. S.B. 160 of the 121st General Assembly be amended to read as follows: 77391
77392

Sec. 3. Sections 109.57, 109.572, 2950.08, and 2953.32, ~~and 3701.881~~ of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 77393
77394

160 of the 121st General Assembly regarding employment of persons 77395
who provide direct care to older adults, and sections ~~173.41,~~ 77396
3712.09, 3721.121, and 3722.151 of the Revised Code, as enacted by 77397
~~this act~~ Am. Sub. S.B. 160 of the 121st General Assembly, apply 77398
only to persons who apply for employment on or after ~~the effective~~ 77399
~~date of this act~~ January 27, 1997. 77400

Section 610.11. That existing Section 3 of Am. Sub. S.B. 160 77401
of the 121st General Assembly is hereby repealed. 77402

Section 620.10. That Section 3 of Am. Sub. S.B. 38 of the 77403
120th General Assembly be amended to read as follows: 77404

Sec. 3. Sections 3301.54, and 5104.09, ~~and 5126.28~~ of the 77405
Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 38 of the 120th 77406
General Assembly, and sections 109.572, 2151.86, 3301.32, 77407
3301.541, ~~3319.311~~ 3319.39, ~~3701.881,~~ 5104.012, 5104.013, and 77408
5153.111 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 77409
38 of the 120th General Assembly, apply only to persons who apply 77410
for employment for a position on or after ~~the effective date of~~ 77411
~~this act~~ October 29, 1993. 77412

Section 620.11. That existing Section 3 of Am. Sub. S.B. 38 77413
of the 120th General Assembly is hereby repealed. 77414

Section 650.10. That Sections 261.10.10, 261.10.20, 77415
261.10.30, 261.10.50, 261.10.60, 261.10.80, 261.10.90, 261.20.20, 77416
261.20.70, 261.30.50, and 263.10.80 of Am. Sub. H.B. 153 of the 77417
129th General Assembly are hereby repealed. 77418

Section 701.10.10. OHIO STATEHOUSE SAFETY AND SECURITY STUDY 77419

The Department of Public Safety shall conduct a study of the 77420
safety and security of the Ohio Statehouse complex. The study 77421

shall include recommendations for improving the security protocols 77422
while providing for the health, safety, and convenience of those 77423
who work in, or visit, the statehouse. The report shall be 77424
submitted to the Capitol Square Review and Advisory Board for 77425
adoption not later than December 1, 2012. 77426

Section 701.20. As used in this section, "political 77427
subdivision" has the meaning defined in section 2744.01 of the 77428
Revised Code. 77429

The Auditor of State shall establish, operate, and maintain 77430
one or more web sites to serve as an online clearinghouse of 77431
information about existing joint purchasing programs between or 77432
among political subdivisions in the state, streamlining government 77433
operations, collaboration, and shared services to reduce the cost 77434
of government in this state. The web site may be developed by the 77435
Auditor of State or through the use of outside vendors. Existing 77436
web sites may be used if their content conforms to the 77437
requirements of this section. In establishing, maintaining, and 77438
operating the online clearinghouse web site, the Auditor of State 77439
shall: 77440

(A) Use a domain name for the web site that will be easily 77441
recognized, remembered, and understood by the users of the web 77442
site; 77443

(B) Maintain the web site so that it is fully accessible to 77444
and searchable by members of the public at all times; 77445

(C) Not charge a fee to a person who accesses, searches, or 77446
otherwise uses the web site; 77447

(D) Compile information provided by political subdivisions 77448
about joint purchasing arrangements they are involved in that the 77449
Auditor of State verifies, through meetings with various statewide 77450
associations and others, to have resulted in verifiable cost 77451

savings, and consolidate that information on the web site in a 77452
consistent manner and compile information provided by political 77453
subdivisions that includes savings recommendations from 77454
performance audits, examples of shared services among communities, 77455
shared services agreements to use as templates, and other tools 77456
developed independently by the Auditor of State or requested by 77457
political subdivisions and agreed to by the Auditor of State; 77458

(E) Enable political subdivisions to register and request 77459
inclusion of their submitted information on the web site, as well 77460
as to report state and local barriers to collaboration; 77461

(F) Enable information to be accessed by key word, by program 77462
name, by county, by type of product or service, and by other 77463
useful identifiers; 77464

(G) Maintain adequate systemic security and back-up features, 77465
and develop and maintain a contingency plan for coping with and 77466
recovering from power outages, systemic failures, and other 77467
unforeseen difficulties; and 77468

(H) Maintain the web site in such a manner that it will not 77469
infringe legally protected interests, so that vulnerability of the 77470
web site to interruption because of litigation or the threat of 77471
litigation is reduced. 77472

The Auditor of State shall bear the expense of establishing, 77473
operating, and maintaining the online clearinghouse web site. 77474

Section 701.41. The Department of Administrative Services 77475
shall analyze opportunities to reduce travel expenses through 77476
teleconferencing and web conferencing within state government. The 77477
Department shall assess current teleconferencing capabilities 77478
within state government operations, research industry standards 77479
and best practices, and make recommendations that will optimize 77480
the use of these technologies. Not later than December 31, 2012, 77481

the Department of Administrative Services shall produce a report 77482
with its findings and shall deliver the report to the Speaker and 77483
Minority Leader of the House of Representatives, the President and 77484
Minority Leader of the Senate, and the Governor. 77485

Section 701.50. MARCS STEERING COMMITTEE AND STATEWIDE 77486
COMMUNICATIONS SYSTEM 77487

There is hereby created a Multi-Agency Radio Communications 77488
System (MARCS) Steering Committee consisting of the designees of 77489
the Directors of Administrative Services, Public Safety, Natural 77490
Resources, Transportation, Rehabilitation and Correction, and 77491
Budget and Management, and the State Fire Marshal or the State 77492
Fire Marshal's designee. The Director of Administrative Services 77493
or the Director's designee shall chair the Committee. The 77494
Committee shall provide assistance to the Director of 77495
Administrative Services for effective and efficient implementation 77496
of the MARCS system as well as develop policies for the ongoing 77497
management of the system. Upon dates prescribed by the Directors 77498
of Administrative Services and Budget and Management, the MARCS 77499
Steering Committee shall report to the Directors on the progress 77500
of MARCS implementation and the development of policies related to 77501
the system. 77502

Section 701.60. As used in this section, "business day" means 77503
a day of the week, excluding Saturday, Sunday, or a legal holiday 77504
as defined in section 1.14 of the Revised Code. 77505

Any regional council of governments that was formed and is 77506
operating before the effective date of the amendment by this act 77507
of section 167.04 of the Revised Code shall notify the Auditor of 77508
State of its existence within 30 business days after the effective 77509
date of that amendment, and shall provide on a form prescribed by 77510
the Auditor of State the information required under that section. 77511

The Auditor of State shall review the information and, within one 77512
year after the effective date of that amendment, shall issue a 77513
report to the Governor and the General Assembly. The report shall 77514
address how many regional councils of governments are operating 77515
under Chapter 167. of the Revised Code, whether those regional 77516
councils continue to meet the objectives for which regional 77517
councils were first authorized in 1967, and whether regional 77518
councils are an efficient and effective way for local governments 77519
to share services or to participate in cooperative arrangements. 77520

Section 701.70.10. (A) The construction and energy operations 77521
of the Office of the State Architect and Engineer (OSAE) under 77522
Chapters 123. and 153. are transferred and consolidated into the 77523
construction and capital funding operations of the Ohio Facilities 77524
Construction Commission (OFCC). And the Ohio School Facilities 77525
Commission (OSFC) becomes an independent agency within the Ohio 77526
Facilities Construction Commission. Notwithstanding Chapter 153. 77527
of the Revised Code, the OFCC is thereupon and thereafter 77528
successor to, assumes the power and obligations of, and otherwise 77529
constitutes the continuation of the construction and energy 77530
operations and related management functions of the OSAE as 77531
provided in the applicable sections of Chapter 153. of the Revised 77532
Code or in any agreements relating to capital expenditures for 77533
construction operations functions to which the OSAE is a party. 77534
All statutory references to the OSAE are deemed to be references 77535
to the OFCC. 77536

(B) Any activities relating to the operations and related 77537
management functions commenced but not completed by the OSAE shall 77538
be completed by the OFCC in the same manner and with the same 77539
effect as if completed by the OSAE. No validation, cure, right, 77540
privilege, remedy, obligation, or liability is lost or impaired by 77541
reason of the consolidation, and shall be administered by the 77542
OFCC. All rules, orders, and determinations related to design, 77543

planning, and construction and energy operations and related 77544
management functions of the OSAE continue in effect as rules, 77545
orders, and determinations of the OFCC, until modified or 77546
rescinded by the OFCC. The Director of the Legislative Service 77547
Commission shall renumber the OSAE rules related to the design, 77548
planning, and construction and energy operations and related 77549
management functions to reflect their transfer to the OFCC. 77550

(C) To the extent possible, all employees of the OSAE shall 77551
be transferred to the OFCC, as the OFCC determines to be necessary 77552
for the successful implementation of this section. All employees 77553
of the OSFC shall remain in their current classifications unless 77554
the OFCC determines otherwise. 77555

(D) No judicial or administrative action or proceeding, to 77556
which the OSAE or an authorized officer of either is a party, that 77557
is pending on the effective date of this section, or on such later 77558
date as may be established by an authorized officer of the OFCC 77559
and that is related to its construction, capital funding, or 77560
energy operation or related management functions, is affected by 77561
the transfer and consolidation of functions. Any such action or 77562
proceeding shall be prosecuted or defended in the name of the 77563
OFCC. On application to the court or agency, the OFCC shall be 77564
substituted for the OSAE or an authorized officer of either as a 77565
party to the action or proceeding. 77566

(E) Notwithstanding any provision of the law to the contrary, 77567
and not sooner than 90 days after the effective date of this 77568
section, and if requested by the OFCC, the Director of Budget and 77569
Management shall make budget changes made necessary by the 77570
transfer, if any, including administrative organization, program 77571
transfers, the creation of new funds, the transfer of state funds, 77572
and the consolidation of funds, as authorized by this section. The 77573
Director of Budget and Management may, if necessary, establish 77574
encumbrances or parts of encumbrances created in fiscal years 2012 77575

and 2013 in the appropriate fund and appropriation item for the 77576
same purpose and for payment to the same vendor in fiscal year 77577
2013. The established encumbrances plus any additional amounts 77578
determined to be necessary for the OFCC to perform the 77579
construction, energy, and capital funding operation and related 77580
management functions of the OSAE are hereby appropriated. 77581

(F) Not later than 30 days after the transfer and 77582
consolidation of the construction, energy, and capital funding 77583
operations and related management functions of the OSAE to the 77584
OFCC, an authorized officer of the OSAE shall certify to the OFCC 77585
the unexpended balance and location of any funds and accounts 77586
designated for building and facility operation and management 77587
functions, and the custody of such funds and accounts shall be 77588
transferred to the OFCC. 77589

(G) The OFCC and the Department of Natural Resources (DNR) 77590
shall cooperate in a study to determine which operation functions, 77591
if any, of the DNR Division of Engineering should be integrated 77592
and consolidated into the OFCC. The study shall be completed not 77593
later than December 31, 2012. 77594

Section 701.70.20. The Division of Labor in the Department of 77595
Commerce is hereby renamed the Division of Industrial Compliance 77596
on the effective date of section 121.04 of the Revised Code, as 77597
amended by this act. The Division and the Superintendent of 77598
Industrial Compliance shall have and perform all the duties, 77599
powers, and obligations of the Division and Superintendent of 77600
Labor. All rules, actions, determinations, commitments, 77601
resolutions, decisions, and agreements pertaining to the duties, 77602
powers, obligations, functions, and rights of the Division or 77603
Superintendent of Labor, in force or in effect on the effective 77604
date of section 121.04 of the Revised Code, as amended by this 77605
act, shall continue in force and effect and apply to the Division 77606

or Superintendent of Industrial Compliance as applicable and 77607
subject to any further lawful action thereon by the Division or 77608
Superintendent of Industrial Compliance. Wherever the 77609
Superintendent of Labor or Division of Labor are referred to in 77610
any provision of law, or in any agreement or document that 77611
pertains to those duties, powers, obligations, functions, and 77612
rights, the reference is to the Superintendent of Industrial 77613
Compliance or Division of Industrial Compliance, as appropriate. 77614

All authorized obligations and supplements thereto of the 77615
Superintendent and Division of Labor are binding on the 77616
Superintendent or Division of Industrial Compliance and nothing in 77617
this act impairs those obligations or rights or the obligations or 77618
rights under any contract. The renaming of the Division of Labor 77619
and Superintendent of Labor does not affect the validity of 77620
agreements or obligations made by that superintendent or division 77621
pursuant to Chapters 121., 3703., 3781., 3791., 4104., 4105., and 77622
4740. of the Revised Code or any other provisions of law. 77623

In connection with the renaming of the Division of Labor, all 77624
real property and interest therein, documents, books, money, 77625
papers, records, machinery, furnishings, office equipment, 77626
furniture, and all other property over which the Superintendent 77627
and Division of Labor have control and the rights of the 77628
Superintendent and Division of Labor to enforce or receive any of 77629
those is automatically transferred to the Superintendent and 77630
Division of Industrial Compliance without necessity for further 77631
action on the part of the Superintendent or Division of Industrial 77632
Compliance, or the Director of Commerce. Additionally, all 77633
appropriations or reappropriations made to the Superintendent and 77634
Division of Labor for the purposes of the performance of their 77635
duties, powers, and obligations, are transferred to the 77636
Superintendent and Division of Industrial Compliance to the extent 77637
of the remaining unexpended or unencumbered balance thereof, 77638

whether allocated or unallocated, and whether obligated or 77639
unobligated. 77640

Section 701.80. There is hereby created the Compressed 77641
Natural Gas Study Committee to examine the use of compressed 77642
natural gas in the motor vehicle fleets of the state and political 77643
subdivisions. The Committee shall consist of the following seven 77644
members: two members of the Ohio Senate appointed by the President 77645
of the Senate, both of whom shall be of different political 77646
parties; two members of the Ohio House of Representatives 77647
appointed by the Speaker of the House of Representatives, both of 77648
whom shall be of different political parties; one person appointed 77649
by the Governor who is an Ohio resident and has knowledge of or 77650
experience in the use of alternative motor vehicle fuels; the 77651
Director of Administrative Services or the Director's designee; 77652
and the Director of Transportation, or the Director's designee. 77653
The initial appointments to the Committee shall be made not later 77654
than thirty days after the effective date of this section. If a 77655
member of the Committee who is a member of the Ohio Senate or Ohio 77656
House of Representatives ceases to be a member of the Ohio Senate 77657
or Ohio House of Representatives, that person shall cease to be a 77658
member of the Committee. A vacancy on the Committee shall be 77659
filled in the same manner as the original appointment. 77660

The Committee shall select from among its members a 77661
chairperson, a vice-chairperson, and a secretary. Members of the 77662
Committee shall serve without compensation but shall be reimbursed 77663
for their actual and necessary expenses incurred in the 77664
performance of their duties. 77665

The Committee shall examine the feasibility, budgetary 77666
effect, and return on investment from the use of compressed 77667
natural gas in the motor vehicle fleets of the state and political 77668
subdivisions, including transit fleets operated under Chapter 306. 77669

of the Revised Code. In examining the potential return on 77670
investment, the Committee shall consider the impact of converting 77671
all or part of the different motor vehicle fleets over a period of 77672
two to four years and shall develop various proposals for funding 77673
the conversion of the motor vehicle fleets. The Committee shall 77674
utilize any information collected by the Department of 77675
Administrative Services as part of its fleet management and 77676
requirements concerning use of alternative fuels under sections 77677
125.83 to 125.838 of the Revised Code. The Committee may conduct 77678
public hearings and may hire such consultants or experts and other 77679
persons as the Committee considers necessary to allow the 77680
Committee to fulfill its duties under this act. 77681

Not later than six months after the last initial appointment 77682
is made to the Committee, the Committee shall issue a report on 77683
its findings and recommendations on using compressed natural gas 77684
to fuel the motor vehicle fleets of the state and political 77685
subdivisions, including any recommendation for funding the 77686
conversion to compressed natural gas. The Committee shall furnish 77687
copies of its report to the Governor, the Ohio Senate, and the 77688
Ohio House of Representatives. Upon issuing its report, the 77689
Committee shall cease to exist. 77690

As used in this section, "political subdivision" means a 77691
county, township, municipal corporation, or any other body 77692
corporate and politic that is responsible for government 77693
activities in a geographic area smaller than that of the state. 77694

Section 701.90. (A) As used in this section: 77695

(1) "Eligible business" means a for-profit business 77696
association that has at least six employees but not more than 77697
ninety-nine employees and that has maintained its principal place 77698
of business in the state for at least a two-year period ending on 77699
the date the business applies for assistance under this section. 77700

The business must generate at least seven hundred fifty thousand 77701
dollars but not more than twenty-five million dollars in annual 77702
revenue and must have increased both its number of full-time 77703
equivalent employees in this state and its gross revenue during at 77704
least three of the five years preceding the date of application. 77705

(2) "Full-time equivalent employee" means the quotient 77706
obtained by dividing the total number of hours for which an 77707
eligible business employs employees during a year by two thousand 77708
eighty. 77709

(B) There is hereby created in the department of development 77710
the economic gardening technical assistance pilot program. The 77711
director of development may contract or coordinate with one or 77712
more persons to aid in the administration and operation of the 77713
program. 77714

The director shall provide technical assistance to eligible 77715
businesses, including, but not limited to, access to information 77716
and market intelligence services, including information on 77717
markets, customers, and competitors, such as business databases, 77718
geographic information systems, search engine marketing, and 77719
business connection development encouraging interaction and 77720
exchange among business owners and resource providers such as 77721
trade associations, academic institutions, business advocacy 77722
organizations, peer-based learning sessions, and mentoring 77723
programs. The director, through the program, is authorized to 77724
promote the general business and industrial interests of the 77725
state. 77726

(C)(1) The director, in selecting eligible businesses to 77727
assist, shall select businesses in more than one industry 77728
classification and, to the extent practicable, shall choose 77729
businesses that are geographically distributed throughout the 77730
state. 77731

(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 77763
necessary for the administration of the economic gardening 77764
technical assistance pilot program. 77765

Section 701.91. Section 701.90 of this act is hereby 77766
repealed, effective two years after the effective date of that 77767
section. 77768

Section 701.100. Notwithstanding section 131.44 of the 77769
Revised Code, no transfer from the General Revenue Fund to the 77770
Budget Stabilization Fund based on the surplus revenue that 77771
existed on June 30, 2012, shall be made without the prior approval 77772
of the General Assembly. 77773

Section 707.10. For fiscal years 2013 and 2014, the 77774
legislative authority of a municipal corporation in a county, with 77775
a population between three hundred seventy-five thousand and four 77776
hundred thousand according to the most recent federal decennial 77777
census, may conduct a pilot program whereby the legislative 77778
authority may use up to five per cent of the aggregate amount of 77779
money deposited in the municipal corporation's sewer fund and up 77780
to five per cent of the aggregate amount of money deposited in a 77781
fund created by the municipal corporation for water-works for the 77782
purpose of extending the municipal corporation's water or sewerage 77783
system, as applicable, if both of the following apply: 77784

(A) The water or sewerage system is being extended to areas 77785
for economic development purposes. 77786

(B) The areas into which the water or sewerage system is 77787
being extended are the subject of a cooperative economic 77788
development agreement entered into by the municipal corporation 77789
under section 701.07 of the Revised Code. 77790

With regard to either fund, the legislative authority shall 77791

not exceed the five per cent limit established in this section. 77792

Section 733.05. Not later than ninety days after the 77793
effective date of this section, the Ohio Board of Regents shall 77794
complete a review of each entity that held the Department of 77795
Insurance's designation under section 3305.03 of the Revised Code 77796
immediately prior to the effective date of this act. In conducting 77797
the review, the Board shall comply with the applicable 77798
requirements of sections 3305.03 and 3305.031 of the Revised Code, 77799
as amended and enacted by this act. 77800

Section 733.10. (A) This section applies to a state 77801
university, as defined in section 3345.011 of the Revised Code, 77802
that has a main campus subsidy-eligible undergraduate enrollment 77803
of more than 17,000 but less than 22,000 students for fiscal year 77804
2012. 77805

(B) Notwithstanding section 3313.41 of the Revised Code, when 77806
a school district board of education decides to dispose of real 77807
property that the board owns in its corporate capacity, exceeds in 77808
value ten thousand dollars, and is located within one hundred 77809
yards of any classroom or administrative building on the main 77810
campus of the state university as described in division (A) of 77811
this section, prior to offering that property for sale under 77812
divisions (A) to (G) of section 3313.41 of the Revised Code, the 77813
board may offer that property to the board of trustees of the 77814
state university in either or both of the following manners: 77815

(1) In an "as is" condition in return for an agreement 77816
between the board of trustees and the school district board, under 77817
which the university will provide the school district with in-kind 77818
services, educational programs, or other assistance valued in the 77819
aggregate in an amount reasonably related to the appraised fair 77820
market value of the property; 77821

(2) For sale for money at a price that is not higher than the appraised fair market value of that property. 77822
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(C) If the board of trustees does not accept either offer, or if the agreement is not entered into between the school district board and the board of trustees, within sixty days after the offer is made by the district board, the district board then shall offer the property for sale as provided in division (G) of section 3313.41 of the Revised Code. 77824
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(D) This section expires on December 31, 2012. 77830

Section 737.10. ABOLISHMENT OF THE PUBLIC HEALTH COUNCIL 77831

On the effective date of this section, the Public Health Council is abolished and the responsibilities of the Public Health Council are transferred to the Director of Health. 77832
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Any business before the Public Health Council commenced but not completed before the effective date of this section shall be completed by the Director of Health. The business shall be completed in the same manner, and with the same effect, as if completed by the Director of Health immediately prior to the effective date of this section. 77835
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No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of this act's abolishment of the Public Health Council and transfer of responsibility to the Director of Health. Each such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the Director of Health. 77841
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All rules, orders, and determinations of the Public Health Council adopted or made immediately prior to the effective date of this section shall continue in effect as rules, orders, and determinations of the Director of Health until modified or rescinded by the Director of Health. If necessary to ensure the 77847
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integrity of the numbering system of the Administrative Code, the 77852
Director of the Legislative Service Commission shall renumber the 77853
rules to reflect the transfer of the Public Health Council's 77854
responsibilities to the Director of Health. 77855

Any action or proceeding that is related to the functions or 77856
duties of the Public Health Council pending on the effective date 77857
of this section is not affected by the transfer and shall be 77858
prosecuted or defended in the name of the Director of Health. In 77859
all such actions and proceedings, the Director of Health, on 77860
application to the court, shall be substituted as a party. 77861

Section 737.20. (A) On the effective date of the amendment of 77862
the statutes governing the Division of Recycling and Litter 77863
Prevention in the Department of Natural Resources by this act or 77864
on July 1, 2012, whichever is later, the Division of Recycling and 77865
Litter Prevention is abolished, and all of its functions, together 77866
with its assets and liabilities, are transferred from within the 77867
Department of Natural Resources to within the Environmental 77868
Protection Agency. 77869

(B) Any business commenced but not completed by the Division 77870
of Recycling and Litter Prevention in the Department of Natural 77871
Resources on the effective date of the transfer shall be completed 77872
by the Environmental Protection Agency. Any validation, cure, 77873
right, privilege, remedy, obligation, or liability is not lost or 77874
impaired solely by reason of the transfer required by this section 77875
and shall be administered by the Environmental Protection Agency 77876
in accordance with this act. 77877

(C) All of the rules, orders, and determinations of the 77878
Division of Recycling and Litter Prevention in the Department of 77879
Natural Resources or of the Department of Natural Resources in 77880
relation to that Division continue in effect as rules, orders, and 77881
determinations of the Environmental Protection Agency until 77882

modified or rescinded by the Environmental Protection Agency. If 77883
necessary to ensure the integrity of the numbering of the 77884
Administrative Code, the Director of the Legislative Service 77885
Commission shall renumber rules of the Department of Natural 77886
Resources in relation to the former Division of Recycling and 77887
Litter Prevention in that Department to reflect the transfer to 77888
the Environmental Protection Agency. 77889

(D) Subject to the provisions of the applicable bargaining 77890
unit agreements, all of the positions of the Division of Recycling 77891
and Litter Prevention in the Department of Natural Resources are 77892
transferred to the Environmental Protection Agency. Employees who 77893
transfer with the positions shall retain their same or 77894
substantially similar positions and all the benefits accruing 77895
thereto. Upon completion of the transfer, the employees shall be 77896
subject to the policies and procedures of the Environmental 77897
Protection Agency. 77898

(E) Whenever the Division of Recycling and Litter Prevention 77899
in the Department of Natural Resources or the Chief of the 77900
Division of Recycling and Litter Prevention is referred to in any 77901
law, contract, or other document, the reference shall be deemed to 77902
refer to the Environmental Protection Agency or to the Director of 77903
Environmental Protection, whichever is appropriate in context. 77904

(F) Any action or proceeding pending on the effective date of 77905
the amendment of the statutes governing the Division of Recycling 77906
and Litter Prevention by this act is not affected by the transfer 77907
of the functions of that Division by this act and shall be 77908
prosecuted or defended in the name of the Environmental Protection 77909
Agency. In all such actions and proceedings, the Environmental 77910
Protection Agency, upon application to the court, shall be 77911
substituted as a party. 77912

Section 737.30. The Recycling and Litter Prevention Advisory 77913

Council created within the Environmental Protection Agency by 77914
section 3736.04 of the Revised Code, as amended and renumbered by 77915
this act, is a continuation of the Recycling and Litter Prevention 77916
Advisory Council created within the Division of Recycling and 77917
Litter Prevention in the Department of Natural Resources by 77918
section 1502.04 of the Revised Code prior to its amendment and 77919
renumbering by this act. 77920

Section 737.40. (A) As used in this section: 77921

(1) "Food service operation," "retail food establishment," 77922
and "vending machine location" have the same meanings as in 77923
section 3717.01 of the Revised Code. 77924

(2) "Micro market" means an area or room that has displays of 77925
not more than two hundred fifty linear feet that offer either of 77926
the following: 77927

(a) Prepackaged foods that are not time- or 77928
temperature-controlled for food safety purposes; 77929

(b) Prepackaged foods that are refrigerated or frozen and 77930
time- or temperature-controlled for food safety purposes and that 77931
are stored in equipment that complies with Chapter 3717-1 of the 77932
Administrative Code. 77933

(B) Until the Director of Agriculture adopts rules under 77934
section 3717.04 of the Revised Code governing the licensure of 77935
micro markets, the operation of a micro market is exempt from the 77936
licensure requirements for retail food establishments, food 77937
service operations, and vending machine locations established 77938
under Chapter 3717. of the Revised Code. This division applies to 77939
a micro market that was previously exempted under division (B)(5) 77940
of section 3717.22 of the Revised Code by the Director from being 77941
licensed as a retail food establishment. 77942

(C) Not later than sixty days following the adoption of rules 77943

by the Director under section 3717.04 of the Revised Code 77944
governing the licensure of micro markets, the operator of a micro 77945
market shall apply for a license in accordance with those rules. 77946

Section 737.50. Not later than 30 days after the amendment by 77947
this act of section 3791.11 of the Revised Code takes effect, the 77948
Treasurer of State shall give written notice to each property 77949
owner or lessee who, under former division (D) of that section, 77950
deposited money or a surety or government-issued bond with the 77951
Treasurer of State that the money will be refunded or the bond 77952
will be released within the following time period, and that the 77953
property owner or lessee must file a bond in the manner required 77954
by division (C) of section 3791.11 of the Revised Code immediately 77955
after the refund or release: 77956

(A) If money was deposited, the Treasurer of State will 77957
refund the money to the property owner or lessee within 180 days 77958
after the effective date of section 3791.11 of the Revised Code, 77959
as amended by this act; 77960

(B) If a surety bond was deposited, the Treasurer of State 77961
will release the bond to the property owner or lessee upon the 77962
earlier of the expiration of the bond or within two years after 77963
the effective date of section 3791.11 of the Revised Code, as 77964
amended by this act; 77965

(C) If a government-issued bond was deposited, the Treasurer 77966
of State will release the bond to the property owner or lessee 77967
within 180 days after the effective date of section 3791.11 of the 77968
Revised Code, as amended by this act. 77969

Section 737.60. LUPUS EDUCATION AND AWARENESS PROGRAM 77970

(A) In establishing the Lupus Education and Awareness Program 77971
under sections 3701.77 to 3701.775 of the Revised Code, as enacted 77972
by this act, the General Assembly hereby finds the following: 77973

(1) Lupus is a serious, complex, and debilitating autoimmune disease that can cause inflammation and tissue damage to virtually any organ system in the body, including the skin, joints, other connective tissue, blood and blood vessels, heart, lungs, kidneys, and brain. 77974
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(2) The Lupus Foundation of America, Inc., estimates that approximately 1.5 to 2 million Americans live with lupus. 77979
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(3) According to the Centers for Disease Control and Prevention, the rate of lupus mortality has increased since the late 1970s. 77981
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(4) The pain and fatigue associated with lupus can threaten the ability to live independently, maintain employment, and lead a normal life. One in five individuals with lupus is disabled by the disease, and consequently receives support from government programs, including Medicare, Medicaid, Social Security Disability, and Social Security Supplemental Income. 77984
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(5) The estimated average annual cost of medical treatment for an individual with lupus is between \$10,000 and \$30,000; for individuals who have the most serious form of lupus, medical costs can greatly exceed this amount, causing a significant economic, emotional, and social burden to the entire family and society. 77990
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(6) More than half of individuals with lupus suffer four or more years and visit three or more physicians before obtaining a diagnosis of lupus; early diagnosis of and treatment for lupus can prevent or reduce serious organ damage, disability, and death. 77995
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(7) Despite the magnitude of lupus and its impact on individuals and families, health professional and public understanding of lupus remains low; only one in five Americans can provide basic information about lupus, and awareness of lupus is lowest among adults 18 to 34 years of age - the age group most likely to develop lupus. 77999
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(8) Lupus is a significant national health issue that 78005
deserves a comprehensive and coordinated response by state and 78006
federal governments with involvement of the health care provider, 78007
patient, and public health communities. 78008

(B) The purpose of sections 3701.77 to 3701.775 of the 78009
Revised Code, as enacted by this act, is to create a 78010
multi-pronged, statewide program to promote public and health 78011
professional awareness and increase knowledge concerning the 78012
causes and consequences of lupus, the importance of early 78013
diagnosis and appropriate management, and effective treatment and 78014
management strategies by all of the following: 78015

(1) Conducting educational and training programs for health 78016
professionals on lupus diagnosis and management; 78017

(2) Developing and disseminating educational materials and 78018
information to patients and health professionals on lupus research 78019
results and health care services available; 78020

(3) Designing and implementing a statewide public education 78021
campaign aimed at heightening public awareness of lupus; 78022

(4) Leveraging educational and training resources and 78023
services previously developed by organizations with appropriate 78024
expertise and knowledge of lupus. 78025

Section 737.70. PILOT PROGRAM FOR OPIOID- AND 78026
ALCOHOL-DEPENDENT OFFENDERS 78027

(A) The Department of Alcohol and Drug Addiction Services 78028
shall conduct a pilot program to provide to certain 78029
opioid-dependent, alcohol-dependent, or opioid- and 78030
alcohol-dependent offenders within the criminal justice system 78031
treatment to prevent relapse into dependency, including 78032
medication-assisted treatment. The medication-assisted treatment 78033
shall be provided by using one or more drugs that constitute 78034

long-acting antagonist therapy and meet all of the following 78035
conditions: 78036

(1) There is no potential for abuse of the drugs by the 78037
person to whom they are given or through diversion of the drugs to 78038
others. 78039

(2) There is no potential for a person to become addicted to 78040
or otherwise dependent on the drugs. 78041

(3) The drugs have been approved by the United States Food 78042
and Drug Administration to prevent relapse into opioid dependency, 78043
alcohol dependency, or opioid and alcohol dependency. 78044

(B) The Department shall conduct the program in Franklin 78045
County and Scioto County and may conduct the program in any one or 78046
more other counties the Department selects. In conducting the 78047
program, the Department shall collaborate with the boards of 78048
alcohol, drug addiction, and mental health services that serve the 78049
counties included in the program. The Department also shall 78050
collaborate with the Departments of Mental Health, Job and Family 78051
Services, and Health and with any other state agency that the 78052
Department determines may be of assistance in accomplishing the 78053
objectives of the program. 78054

(C) The program shall serve not more than one hundred fifty 78055
opioid-dependent or alcohol-dependent offenders selected by the 78056
Department, each of whom meets all of the following criteria: 78057

(1) Is either being released from a community-based 78058
correctional facility or being diverted from prosecution under 78059
section 2935.36 of the Revised Code by a county drug court or 78060
municipal court; 78061

(2) Is transitioning to community-based programs as 78062
prescribed by the court; 78063

(3) Was opioid dependent, alcohol dependent, or opioid and 78064

alcohol dependent at the time of committing the offense for which 78065
the offender was most recently sentenced; 78066

(4) Resides in this state and in the offender's own 78067
court-approved residence or court-approved transitional housing. 78068

(D) A program participant shall do both of the following: 78069

(1) Commit to participate in the program for twelve months 78070
and comply with all requirements established by the program, 78071
sentencing court, and treatment providers, including testing, 78072
counseling, medication therapies, and reporting requirements; 78073

(2) Attend any on-site programming specified by the 78074
sentencing court or treatment provider. 78075

(E) Treatment under the program shall be provided by an 78076
alcohol and drug addiction program certified by the Department 78077
under section 3793.06 of the Revised Code. Treatment shall be 78078
based on an integrated service delivery model. The treatment 78079
provider shall do all of the following: 78080

(1) Conduct a professional, comprehensive substance abuse and 78081
mental health diagnostic assessment of each person who is a 78082
potential program participant to determine whether the person is 78083
opioid dependent, alcohol dependent, or opioid and alcohol 78084
dependent and would benefit from substance abuse treatment and 78085
monitoring to address the dependency; 78086

(2) Determine treatment needs for each program participant 78087
based on the diagnostic assessment; 78088

(3) Develop individualized goals and objectives for each 78089
program participant that follow guidelines provided by the 78090
Department; 78091

(4) Provide initial treatment to each program participant by 78092
persons professionally qualified to provide substance abuse 78093
counseling or treatment; 78094

(5) Provide substance abuse and co-occurring disorder treatment that includes psychosocial therapies and monthly medication-assisted treatment; 78095
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(6) Provide access to long-acting antagonist therapies to the same extent that access may be provided to any other medication-assisted treatment approved by the United States Food and Drug Administration; 78098
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(7) Monitor program compliance through regular urinalysis drug testing. 78102
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(F) Not later than three months after the program has ended, Kent State University shall prepare a report of the findings obtained from the program, along with its recommendations, if any. The University shall include in the report data derived from the drug testing performed under the program. In preparing the report, the University shall obtain assistance from the Department of Alcohol and Drug Addition Services. When the report is complete, the University shall submit the report to the Governor; President of the Senate; Speaker of the House of Representatives; Departments of Mental Health, Job and Family Services, and Health; and any other agency the Department collaborates with in conducting the program. 78104
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Section 747.10.10. (A) The Manufactured Homes Commission shall adopt the rules required by section 4781.26 of the Revised Code as amended by this act not later than December 1, 2012. After adopting the rules, the Commission immediately shall notify the Director of Health. 78116
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(B)(1) The rules governing manufactured home parks adopted by the Public Health Council under former section 3733.02 of the Revised Code shall remain in effect in a health district until the Commission adopts rules under section 4781.26 of the Revised Code as amended by this act. 78121
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(2) On the effective date of the rules adopted by the Commission as required by section 4781.26 of the Revised Code as amended by this act, the Public Health Council rules adopted under former section 3733.02 of the Revised Code cease to be effective within the jurisdiction of that board of health.

(C) No board of health of a city or general health district shall invoice or collect manufactured home park licensing fees for calendar year 2013.

(D) As used in this section:

(1) "Manufactured home park," "board of health," and "health district" have the same meanings as in section 4781.01 of the Revised Code, as amended by this act.

(2) "Public Health Council" means the Public Health Council created by section 3701.33 of the Revised Code.

Section 747.10.20. Any manufactured home park license and inspection fees collected pursuant to former section 3733.04 of the Revised Code by a board of health prior to the transition of the annual license and inspection program to the Manufactured Homes Commission as required under this act in the amount of two thousand dollars or less may be transferred to the health fund of the city or general health district. Any of those funds in excess of two thousand dollars shall be transferred to the Manufactured Homes Commission Regulatory Fund created in section 4781.54 of the Revised Code as enacted by this act.

Section 747.10.30. Notwithstanding the original term of the appointment, the term of the Manufactured Homes Commission member who was appointed by the Governor as a representative of the Department of Health pursuant to division (B)(2)(b) of section 4781.02 of the Revised Code shall end on the effective date of that section as amended by this act. The initial term of the

registered sanitarian appointed to the Manufactured Homes 78156
Commission pursuant to section 4781.02 of the Revised Code, as 78157
amended by this act, shall expire on the date when the 78158
representative of the Department of Health's term would have 78159
expired, but for this section. 78160

Section 747.20.10. On the effective date of the amendments 78161
made to section 4765.02 of the Revised Code by this act, the 78162
member of the renamed State Board of Emergency Medical, Fire, and 78163
Transportation Services who is an administrator of an adult or 78164
pediatric trauma center shall cease to be a member of the Board. 78165
On the effective date of the amendments made to section 4765.02 of 78166
the Revised Code by this act, the member of the renamed State 78167
Board of Emergency Medical, Fire, and Transportation Services who 78168
is a member of the Ohio Ambulance Association shall cease to be a 78169
member of the Board. On the effective date of the amendments made 78170
to section 4765.02 of the Revised Code by this act, the member of 78171
the renamed State Board of Emergency Medical, Fire, and 78172
Transportation Services who is a physician certified by the 78173
American board of surgery, American board of osteopathic surgery, 78174
American osteopathic board of emergency medicine, or American 78175
board of emergency medicine, is chief medical officer of an air 78176
medical agency, and is currently active in providing emergency 78177
medical services shall cease to be a member of the Board. On the 78178
effective date of the amendments made to section 4765.02 of the 78179
Revised Code by this act, of the members of the renamed State 78180
Board of Emergency Medical, Fire, and Transportation Services who 78181
were EMTs, advanced EMTs, or paramedics and were appointed to the 78182
Board in that capacity, only the members who are designated by the 78183
Governor to continue to be members of the Board shall continue to 78184
be so; the other persons shall cease to be members of the Board. 78185
On the effective date of the amendments made to section 4765.02 of 78186

the Revised Code by this act, the member of the renamed State Board of Emergency Medical and Transportation Services who is a registered nurse and is in the active practice of emergency nursing shall cease to be a member of the Board. Not later than sixty days after the effective date of those amendments, the Governor shall appoint to the renamed State Board of Emergency Medical and Transportation Services a registered nurse with EMS certification who is in the active practice of critical care nursing. The Governor shall appoint this member from among three persons nominated by the Ohio Nurses Association and three persons nominated by the Ohio State Council of the Emergency Nurses Association.

On the effective date of the amendments made to section 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; 78218
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(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. 78221
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(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. 78224
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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. 78227
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Section 747.20.20. TRANSFER OF THE MEDICAL TRANSPORTATION BOARD TO THE DEPARTMENT OF PUBLIC SAFETY 78231
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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. 78233
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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. 78242
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Subject to the lay-off provisions of sections 124.321 to 78248
124.328 of the Revised Code, all employees of the Medical 78249
Transportation Board are transferred to the Department of Public 78250
Safety and shall retain their positions and all benefits accruing 78251
thereto. 78252

No action or proceeding pending on July 1, 2012, is affected 78253
by the transfer and any action or proceeding pending on July 1, 78254
2012, shall be prosecuted or defended in the name of the 78255
Department of Public Safety or its director. In all such actions 78256
and proceedings, the Department of Public Safety or its director, 78257
upon application to the court, shall be substituted as a party. 78258

On or after July 1, 2012, notwithstanding any provision of 78259
law to the contrary, the Director of Budget and Management shall 78260
take any action with respect to budget changes made necessary by 78261
the transfer. The Director may transfer cash balances between 78262
funds. The Director may cancel encumbrances and reestablish 78263
encumbrances or parts of encumbrances as needed in the fiscal year 78264
in the appropriate fund and appropriation item for the same 78265
purpose and to the same vendor. As determined by the Director, 78266
encumbrances reestablished in the fiscal year in a different fund 78267
or appropriation item used by an agency or between agencies are 78268
appropriated. The Director shall reduce each year's appropriation 78269
balances by the amount of the encumbrance canceled in their 78270
respective funds and appropriation item. Any unencumbered or 78271
unallocated appropriation balances from the previous fiscal year 78272
may be transferred to the appropriate appropriation item to be 78273
used for the same purposes, as determined by the Director. Any 78274
such transfers are hereby appropriated. 78275

Section 751.05. FISCAL YEAR 2013 QUALITY BONUS PAYMENTS TO 78276
NURSING FACILITIES 78277

(A) As used in this section: 78278

- (1) "Medicaid days," "nursing facility," and "provider" have the same meanings as in section 5111.20 of the Revised Code. 78279
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- (2) "Point days" means the product of the following: 78281
- (a) A qualifying nursing facility's quality bonus points for fiscal year 2013; 78282
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- (b) The number of the qualifying nursing facility's Medicaid days in fiscal year 2012. 78284
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- (3) "Qualifying nursing facility" means a nursing facility that qualifies for a quality bonus for fiscal year 2013 as determined under division (C) of this section. 78286
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- (4) "Quality bonus points" means the amount determined by subtracting five from the number of points awarded to a qualifying nursing facility under division (C) of section 5111.244 of the Revised Code for fiscal year 2013. 78289
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- (B) Notwithstanding sections 5111.222 and 5111.245 of the Revised Code, quality bonuses to nursing facilities shall be made in accordance with this section for fiscal year 2013 rather than section 5111.245 of the Revised Code. 78293
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- (C) The Department of Job and Family Services shall pay a nursing facility provider a quality bonus for fiscal year 2013 if the provider's nursing facility is awarded more than five points under division (C) of section 5111.244 of the Revised Code for fiscal year 2013 and at least one of the points is awarded to the nursing facility pursuant to division (C)(10), (11), (12), (13), or (14) of that section. 78297
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- (D) The total quality bonus to be paid to the provider of a qualifying nursing facility for fiscal year 2013 shall equal the product of the following: 78304
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- (1) The quality bonus per Medicaid day for the fiscal year determined for the provider's qualifying nursing facility under 78307
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| division (E) of this section; | 78309 |
| (2) The number of the qualifying nursing facility's Medicaid days in fiscal year 2012. | 78310 78311 |
| (E) A qualifying nursing facility's quality bonus per Medicaid day for fiscal year 2013 shall be the product of the following: | 78312 78313 78314 |
| (1) The nursing facility's quality bonus points for fiscal year 2013; | 78315 78316 |
| (2) The quality bonus per point for fiscal year 2013 determined under division (F) of this section. | 78317 78318 |
| (F) The quality bonus per point for fiscal year 2013 shall be determined as follows: | 78319 78320 |
| (1) Determine the number of each qualifying nursing facility's point days for fiscal year 2013. | 78321 78322 |
| (2) Determine the sum of all qualifying nursing facilities' point days for fiscal year 2013. | 78323 78324 |
| (3) Divide thirty million dollars by the sum determined under division (F)(2) of this section. | 78325 78326 |
| (G) The calculation of a qualifying nursing facility's bonus payment is not subject to appeal under Chapter 119. of the Revised Code. | 78327 78328 78329 |
| (H) The Director of Job and Family Services may adopt rules under section 5111.02 of the Revised Code as necessary to implement this section. | 78330 78331 78332 |
| Section 751.10. LICENSURE OF ICFs/MR AS RESIDENTIAL FACILITIES | 78333 78334 |
| (A) Until July 1, 2013, a person or government agency that, on the effective date of this section, operates an intermediate care facility for the mentally retarded pursuant to a nursing home | 78335 78336 78337 |

license issued under Chapter 3721. of the Revised Code shall not 78338
be subject to a penalty under section 5123.99 of the Revised Code 78339
for operating the facility without a license issued under section 78340
5123.19 of the Revised Code notwithstanding sections 5123.20 and 78341
5123.99 of the Revised Code. 78342

(B) Notwithstanding the amendments by this act to sections 78343
3702.62, 3721.01, and 5123.19 of the Revised Code and the repeal 78344
by this act of section 5123.192 of the Revised Code, an 78345
intermediate care facility for the mentally retarded that is 78346
licensed as a nursing home under Chapter 3721. of the Revised Code 78347
on the effective date of this section shall continue to be a 78348
nursing home for the purposes for which it is considered to be a 78349
nursing home under the law in effect on the day immediately 78350
preceding the effective date of those amendments and that repeal 78351
until the earliest of the following: 78352

(1) The date that the facility's nursing home license is 78353
revoked or voided under section 3721.07 of the Revised Code; 78354

(2) The date that a residential facility license is obtained 78355
for the facility under section 5123.19 of the Revised Code; 78356

(3) July 1, 2013. 78357

(C) Notwithstanding the amendment by this act to section 78358
3721.21 of the Revised Code, a nursing home or part of a nursing 78359
home certified as an intermediate care facility for the mentally 78360
retarded on the effective date of this section shall continue to 78361
be excluded from the definition of "long-term care facility" in 78362
that section for as long as it is certified as an intermediate 78363
care facility for the mentally retarded. 78364

(D) Notwithstanding the amendment by this act to section 78365
3721.50 of the Revised Code, a nursing home or part of a nursing 78366
home licensed under section 3721.02 or 3721.09 of the Revised Code 78367
that is certified as an intermediate care facility for the 78368

mentally retarded on the effective date of this section shall 78369
continue to be exempt from the franchise permit fee under sections 78370
3721.50 to 3721.58 of the Revised Code and instead subject to the 78371
franchise permit fee under sections 5112.30 to 5112.39 of the 78372
Revised Code for as long as it is certified as an intermediate 78373
care facility for the mentally retarded. 78374

(E) Notwithstanding the amendment by this act to section 78375
5123.41 of the Revised Code, a nursing home or part of a nursing 78376
home that is certified as an intermediate care facility for the 78377
mentally retarded on the effective date of this section shall 78378
continue to be a residential facility for the purpose of section 78379
5123.41 of the Revised Code for as long as it is certified as an 78380
intermediate care facility for the mentally retarded or is 78381
licensed under section 5123.19 of the Revised Code. 78382

(F) Notwithstanding the amendment by this act to section 78383
5126.51 of the Revised Code, a nursing home or part of a nursing 78384
home that is certified as an intermediate care facility for the 78385
mentally retarded on the effective date of this section shall 78386
continue to be a residential facility for the purpose of section 78387
5126.51 of the Revised Code for as long as it is certified as an 78388
intermediate care facility for the mentally retarded or otherwise 78389
meets the definition of "residential facility" in section 5123.19 78390
of the Revised Code. 78391

Section 751.10.10. ADULT CARE FACILITY LICENSURE TRANSITION 78392

Pursuant to the amendment and repeal by this act of sections 78393
5119.22, 5119.70 to 5119.88, and 5119.99 of the Revised Code, the 78394
Director of Mental Health may convert an adult care facility's 78395
license in effect immediately before the effective date of this 78396
section to a license as a residential facility. Until the Director 78397
converts the license or issues an order denying the conversion, 78398
the adult care facility's license is deemed to be a residential 78399

facility license. All rules, orders, and determinations pertaining 78400
to the adult care facility license continue in effect as rules, 78401
orders, and determinations pertaining to the residential facility 78402
license. 78403

Section 751.15. AGING IN PLACE PILOT PROGRAM 78404

(A) As used in this section: 78405

(1) "Aging in Place administrator" means the organization 78406
that contracts with the Department of Aging pursuant to division 78407
(E) of this section to administer the Aging in Place pilot 78408
program. 78409

(2) "Nursing home" and "residential care facility" have the 78410
same meanings as in section 3721.01 of the Revised Code. 78411

(3) "Residential facility" means a residential facility as 78412
defined in section 5119.22 or a residential facility as defined in 78413
section 5123.19 of the Revised Code. 78414

(4) "Veteran" means either of the following: 78415

(a) A former member of the armed forces of the United States 78416
who served on active military duty and received an honorable 78417
discharge or honorable separation; 78418

(b) A member of the United States army transport service or 78419
the United States naval transport service who has an honorable 78420
report of separation from the active duty military service, form 78421
DD214 or DD215. 78422

(B) The Department of Aging shall establish the Aging in 78423
Place pilot program in Butler, Clermont, Hamilton, and Warren 78424
counties. Up to one hundred eighty eligible individuals may enroll 78425
in the pilot program to receive home repairs and modifications 78426
that are covered by the pilot program. The pilot program shall be 78427
operated for two years. 78428

(C) To be eligible to enroll in the Aging in Place pilot program, an individual must meet all of the following requirements: 78429
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(1) The individual must be at least fifty years of age or a veteran of any age. 78432
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(2) The individual must be a resident of one of the counties in which the pilot program is established. 78434
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(3) The individual must reside in a private residence that is not a nursing home, residential care facility, residential facility, or other facility that may not operate legally without a license, certificate, or other authority issued by an agency of this state or a political subdivision of this state. 78436
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(4) The individual or a member of the individual's household must own the private residence in which the individual resides. 78441
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(5) The individual must be at risk of moving to a nursing home or residential care facility due to a medical condition. 78443
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(6) The private residence in which the individual resides must be in need of a repair or modification covered by the pilot program. 78445
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(7) The individual must meet any other requirements specified in rules adopted under this section. 78448
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(D) The Aging in Place pilot program shall cover home repairs and modifications specified in rules adopted under this section. 78450
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(E) The Department of Aging shall contract with an organization that meets all of the following requirements to administer the Aging in Place pilot program: 78452
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(1) It must have been founded not later than 1975. 78455

(2) It must provide professional and critical home repair and modification services to individuals who reside in the counties in which the pilot program is established and have low incomes or are 78456
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elderly or disabled. 78459

(3) It must be exempt from federal income taxation under 78460
section 501(a) and described in section 501(c)(3) of the "Internal 78461
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501, as amended. 78462

(F) The Aging in Place administrator may help coordinate the 78463
home repairs and modifications provided under the Aging in Place 78464
pilot program with home health services that individuals enrolled 78465
in the pilot program receive under the Medicaid program or other 78466
programs. 78467

(G) The Aging in Place administrator shall seek 78468
nongovernmental funds to help pay the costs of the Aging in Place 78469
pilot program. 78470

(H) The Department of Job and Family Services shall apply to 78471
the United States Secretary of Health and Human Services for a 78472
federal Medicaid waiver to make the Aging in Place pilot program a 78473
component of the Medicaid program. If the waiver is granted, the 78474
Department of Job and Family Services shall enter into an 78475
interagency agreement with the Department of Aging under section 78476
5111.91 of the Revised Code regarding the Department of Aging's 78477
duties under this section and the Department of Aging shall 78478
establish the pilot program as a Medicaid component. If the waiver 78479
is not granted, the Department of Aging shall establish the pilot 78480
program as a non-Medicaid program. 78481

(I) The Director of Aging shall adopt rules in accordance 78482
with Chapter 119. of the Revised Code as necessary to implement 78483
this section. If the Aging in Place pilot program is established 78484
as a Medicaid component, the Director of Job and Family Services 78485
shall adopt any rules that are necessary for the Director of Aging 78486
to be able to adopt the rules for the pilot program. 78487

(J) Not later than ninety days after the termination of the 78488
Aging in Place pilot program, the Department of Aging shall 78489

prepare a report regarding the pilot program. On completion of the 78490
report, the Department shall submit it to the Governor and, in 78491
accordance with section 101.68 of the Revised Code, the General 78492
Assembly. The report shall include the Department's conclusions 78493
regarding all of the following: 78494

(1) The number of individuals in the state who would benefit 78495
from the services covered by the pilot program if the services 78496
were made available statewide; 78497

(2) How governmental and nongovernmental resources can be 78498
leveraged most efficiently to make the services available 78499
statewide; 78500

(3) The costs, if any, that the Medicaid program and other 78501
governmental health care programs would incur if the services were 78502
available statewide; 78503

(4) The impact that the services would have on the quality of 78504
patient care and treatment; 78505

(5) The impact that the services would have on the 78506
communities in which they would be provided; 78507

(6) The overall costs and benefits to the state that the 78508
services would have. 78509

Section 751.20. The amendments by this act to Section 3 of 78510
Am. Sub. S.B. 38 of the 120th General Assembly eliminate the 78511
exemptions from the requirements of sections 3701.881 and 5126.28 78512
of the Revised Code that Section 3 of that act gave to persons 78513
who, before October 29, 1993, were employed or had applied for 78514
employment in positions covered by sections 3701.881 and 5126.28 78515
of the Revised Code. The amendments by this act to Section 3 of 78516
Am. Sub. S.B. 160 of the 121st General Assembly eliminate the 78517
exemptions from the requirements of sections 173.41 (as 78518
subsequently renumbered as 173.394) and 3701.881 of the Revised 78519

Code that Section 3 of that act gave to persons who, before 78520
January 27, 1997, were employed or had applied for employment in 78521
positions covered by sections 173.41 (173.394) and 3701.881 of the 78522
Revised Code. The exemptions are eliminated in conjunction with 78523
this act's amendments to sections 173.394, 3701.881, and 5123.081 78524
of the Revised Code and the repeal of section 5126.28 of the 78525
Revised Code so that the Directors of Aging, Health, and 78526
Developmental Disabilities may adopt rules under those amended 78527
sections to make persons formerly exempt from the requirements of 78528
sections 173.394, 3701.881, and 5126.28 of the Revised Code 78529
subject to the requirements of sections 173.394, 3701.881, and 78530
5123.081 of the Revised Code. 78531

Section 753.11. (A) Notwithstanding section 3313.41 of the 78532
Revised Code, during the period beginning June 30, 2005, and 78533
ending December 31, 2005, a school district board of education in 78534
support of economic development within the territory of the 78535
district may dispose of real property that it owns in its 78536
corporate capacity, and that exceeds in value ten thousand 78537
dollars, by direct sale in lieu of offering the property for sale 78538
at public auction as provided in division (A) of that section, in 78539
lieu of offering the property for sale to an entity listed in 78540
division (C) of that section, or in lieu of offering the property 78541
for sale to a community school as provided in division (G) of that 78542
section, if all of the following conditions are satisfied: 78543

(1) The real property is encumbered by easements, liens, or 78544
other use restrictions that benefit the person acquiring the 78545
property under this section; 78546

(2) The real property was part of or adjacent to real 78547
property previously disposed of by the board of education; 78548

(3) The real property when sold will be used for commercial 78549

development. 78550

(B) Notwithstanding division (A)(3) of this section, on or 78551
after the effective date of this section, the real property may be 78552
used for residential development as well as commercial 78553
development. 78554

Section 757.10. A board of township trustees or the 78555
legislative authority of a municipal corporation to which section 78556
5705.19 or 5705.252 of the Revised Code applies, as enacted or 78557
amended by this act, may adopt the resolution proposing the levy 78558
of the tax or the combined questions authorized by those 78559
enactments or amendments and certify a copy of the resolution to 78560
the proper county board of elections as otherwise prescribed by 78561
law after this act becomes law and before the effective date of 78562
those enactments or amendments, requesting that the board of 78563
elections submit the proposal to the electors at the general 78564
election occurring on November 6, 2012. The board of elections, 78565
upon receiving a properly certified copy of such a resolution not 78566
later than four p.m. on August 8, 2012, shall submit the proposal 78567
to electors at that election as otherwise provided under section 78568
5705.25 or 5705.252 of the Revised Code, and such actions of the 78569
board of township trustees, municipal legislative authority, and 78570
board of elections are hereby ratified. 78571

Section 757.20. As used in this section, "qualified property" 78572
means real property that satisfies the qualifications for tax 78573
exemption under the terms of section 5709.07 of the Revised Code 78574
and that is owned by a church as defined in that section. 78575

Notwithstanding section 5713.081 of the Revised Code, when 78576
qualified property has not received tax exemption due to a failure 78577
to comply with Chapter 5713. or section 5715.27 of the Revised 78578
Code, the current owner of the property, or the prior owner of the 78579

property requesting exemption from prior taxes, at any time on or 78580
before twelve months after the effective date of this section, may 78581
file with the Tax Commissioner an application requesting that the 78582
property be placed on the tax-exempt list and that all unpaid 78583
taxes, penalties, and interest on the property be abated. 78584

The application shall be made on the form prescribed by the 78585
Tax Commissioner under section 5715.27 of the Revised Code and 78586
shall list the name of the county in which the property is 78587
located; the property's legal description; its taxable value; the 78588
amount in dollars of the unpaid taxes, penalties, and interest; 78589
the date of acquisition of title to the property; the use of the 78590
property during any time that the unpaid taxes accrued; and any 78591
other information required by the Tax Commissioner. The county 78592
auditor shall supply the required information upon request of the 78593
applicant. 78594

Upon request of the applicant, the county treasurer shall 78595
determine if all taxes, penalties, and interest that became a lien 78596
on the qualified property before it first was used for an exempt 78597
purpose and all special assessments charged against the property 78598
have been paid in full. If so, the county treasurer shall issue a 78599
certificate to the applicant stating that all such taxes, 78600
penalties, interest, and assessments have been paid in full. Prior 78601
to filing the application with the Tax Commissioner, the applicant 78602
shall attach the county treasurer's certificate to it. The Tax 78603
Commissioner shall not consider an application filed under this 78604
section unless such a certificate is attached to it. 78605

Upon receipt of the application and after consideration of 78606
it, the Tax Commissioner shall determine if the applicant meets 78607
the qualifications set forth in this section, and if so shall 78608
issue an order directing that the property be placed on the 78609
tax-exempt list of the county and that all unpaid taxes, 78610
penalties, and interest for every year the property met the 78611

qualifications for exemption described in section 5709.07 of the Revised Code be abated. If the Tax Commissioner finds that the property is not now being so used or is being used for a purpose that would foreclose its right to tax exemption, the Tax Commissioner shall issue an order denying the application.

If the Tax Commissioner finds that the property is not entitled to tax exemption and to the abatement of unpaid taxes, penalties, and interest for any of the years for which the current or prior owner claims an exemption or abatement, the Tax Commissioner shall order the county treasurer of the county in which the property is located to collect all taxes, penalties, and interest due on the property for those years in accordance with law.

The Tax Commissioner may apply this section to any qualified property that is the subject of an application for exemption pending before the Tax Commissioner on the effective date of this section, without requiring the property owner to file an additional application. The Tax Commissioner also may apply this section to any qualified property that is the subject of an application for exemption filed on or after the effective date of this section and on or before twelve months after that effective date, even though the application does not expressly request abatement of unpaid taxes, penalties, and interest.

Section 806.10. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.

Section 812.10. Sections subject to referendum: general

effective date. Except as otherwise provided in this act, the 78642
amendment, enactment, or repeal by this act of a section is 78643
subject to the referendum under Ohio Constitution, Article II, 78644
Section 1c and therefore takes effect on the ninety-first day 78645
after this act is filed with the Secretary of State. 78646

Section 812.20. Sections exempt from referendum: general 78647
effective date. The amendment, enactment, or repeal by this act of 78648
the following sections is exempt from the referendum under Ohio 78649
Constitution, Article II, Section 1d and section 1.471 of the 78650
Revised Code and therefore takes effect immediately when this act 78651
becomes law: 78652

Sections 145.01, 145.012, 167.04, 306.04, 306.36, 340.091, 78653
901.54, 2927.023, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 78654
3125.41, 3734.131, 3734.15, 3743.06, 3743.19, 3752.06, 4163.07, 78655
4303.22, 4501.01, 4501.06, 4503.81, 4506.01, 4506.03, 4506.22, 78656
4506.25, 4511.78, 4513.50, 4731.293, 4905.01, 4905.02, 4905.03, 78657
4905.05, 4905.06, 4905.402, 4905.54, 4905.57, 4905.58, 4905.80, 78658
4905.801, 4905.81, 4905.82, 4905.83, 4905.84, 4907.01, 4907.02, 78659
4907.04, 4907.08, 4907.19, 4907.28, 4907.35, 4907.37, 4907.43, 78660
4907.49, 4907.57, 4907.59, 4907.60, 4907.61, 4907.62, 4909.01, 78661
4909.02, 4909.03, 4909.17, 4909.22, 4909.24, 4909.28, 4911.01, 78662
4919.75, 4919.76, 4919.77, 4919.78, 4919.79, 4919.99, 4921.01, 78663
4921.02, 4921.03, 4921.04, 4921.05, 4921.06, 4921.07, 4921.08, 78664
4921.09, 4921.10, 4921.101, 4921.11, 4921.12, 4921.13, 4921.14, 78665
4921.15, 4921.16, 4921.17, 4921.18, 4921.19, 4921.20, 4921.21, 78666
4921.23, 4921.24, 4921.25, 4921.26, 4921.27, 4921.28, 4921.30, 78667
4921.31, 4921.32, 4921.34, 4921.35, 4921.36, 4921.37, 4921.38, 78668
4921.39, 4921.40, 4921.99, 4923.01, 4923.02, 4923.03, 4923.04, 78669
4923.05, 4923.06, 4923.07, 4923.08, 4923.09, 4923.10, 4923.11, 78670
4923.12, 4923.13, 4923.14, 4923.15, 4923.17, 4923.20, 4923.26, 78671
4923.99, 4927.01, 4929.01, 4929.02, 4933.18, 4933.19, 4939.01, 78672

4953.04, 4961.03, 4965.54, 5119.691, 5503.02, 5503.34, 5743.031, 78673
and 5751.033 of the Revised Code. 78674

Section 205.10 of Am. Sub. H.B. 114 of the 129th General 78675
Assembly, as amended by Am. Sub. H.B. 153 of the 129th General 78676
Assembly. 78677

Section 201 of Sub. H.B. 123 of the 129th General Assembly. 78678

Section 1 of H.B. 124 of the 129th General Assembly. 78679

Sections 205.10, 207.10, 207.10.80, 207.20.10, 207.20.30, 78680
207.20.90, 209.10, 209.30, 211.10, 215.10, 223.10, 229.10, 243.10, 78681
261.10, 261.10.10, 261.10.20, 261.10.30, 261.10.40, 261.10.50, 78682
261.10.60, 261.10.70, 261.10.80, 261.10.90, 261.20.10, 261.20.20, 78683
261.20.40, 261.20.50, 261.20.60, 261.20.70, 261.20.80, 261.20.90, 78684
261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.50, 261.30.60, 78685
261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 78686
263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.20, 267.10.40, 78687
267.30.40, 279.10, 283.10, 283.20, 283.30, 291.10, 307.10, 309.10, 78688
315.10, 327.10, 335.10, 337.10, 343.10, 343.40, 365.10, 367.10, 78689
369.10, 371.10, 371.50.61, 371.60.70, 371.60.80, 373.10, 375.10, 78690
379.10, 387.10, 403.10, 411.10, 415.10, 503.50, 521.70, and 701.40 78691
of Am. Sub. H.B. 153 of the 129th General Assembly. 78692

Section 247.10 of Am. Sub. H.B. 153 of the 129th General 78693
Assembly, as amended by Sub. H.B. 319 of the 129th General 78694
Assembly. 78695

Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 78696
129th General Assembly, as amended by Sub. H.B. 371 of the 129th 78697
General Assembly. 78698

Sections 515.10, 515.11, 515.12, and 515.13 of this act. 78699

Sections 701.70.10, 701.80, 701.90, 701.91, and 733.10 of 78700
this act. 78701

Sections 812.20 and 812.21 of this act. 78702

Section 812.30 of this act insofar as it refers to parts of 78703
sections that are exempt from the referendum. 78704

Section 812.21. Sections exempt from the referendum: special 78705
effective date. The amendment, enactment, or repeal by this act of 78706
sections 125.05, 152.09, 154.25, 183.28, 3301.75, 3313.603, 78707
3313.976, 3313.978, 3313.979, 3314.074, 3317.06, 3317.50, 3317.51, 78708
3319.22, 3319.235, 3333.82, 3333.90 (3333.59), new 3333.90, 78709
3345.12, 3353.01 (3333.89), 3353.02, 3353.03, 3353.04, 3353.05 78710
(3333.91), 3353.06 (3333.92), 3353.07 (3333.93), 3353.09, 3353.11 78711
(3333.94), 3353.15, and 3353.20 of the Revised Code is exempt from 78712
the referendum under Ohio Constitution, Article II, Section 1d and 78713
section 1.471 of the Revised Code and is therefore entitled to 78714
take effect immediately when this act becomes law. However, the 78715
amendment of those sections takes effect on July 1, 2012, or the 78716
date this act becomes law, whichever is later. 78717

Section 812.30. Mixed sections: general effective dates. The 78718
sections listed in the left-hand column of the following table 78719
combine amendments by this act that are and that are not exempt 78720
from the referendum. The middle column identifies amendments to 78721
the listed sections that are subject to the referendum under Ohio 78722
Constitution, Article II, Section 1c and therefore take effect on 78723
the ninety-first day after this act is filed with the Secretary of 78724
State. The right-hand column identifies amendments to the listed 78725
sections that are exempt from the referendum under Ohio 78726
Constitution, Article II, Section 1d and section 1.471 of the 78727
Revised Code and therefore take effect immediately when this act 78728
becomes law, except as indicated otherwise. 78729

| Section of law | Amendments subject to referendum | Amendments exempt from referendum | |
|----------------|--|--|----------------|
| 105.41 | All except as described in the right hand column | The amendment to division (E)(2) takes | 78730 78731 |

| | | | |
|----------|---|--|-------|
| | | effect July 1, 2012, or the date this act becomes law, whichever is later. | |
| 4905.90 | The amendment in division (A) | All amendments except as described in the middle column | 78732 |
| 5111.941 | The amendment that inserts division (A)(4) | All amendments except as described in the middle column | 78733 |
| 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" | 78734 |
| 5119.69 | The amendments in relettered divisions (D)(1)(b) and (c) | All amendments except as described in the middle column | 78735 |
| 5502.01 | All amendments except as described in the right-hand column | The amendment in division (F) | 78736 |

Section 815.20. The General Assembly, applying the principle 78737
stated in division (B) of section 1.52 of the Revised Code that 78738
amendments are to be harmonized if reasonably capable of 78739
simultaneous operation, finds that the following sections, 78740
presented in this act as composites of the sections as amended by 78741
the acts indicated, are the resulting versions of the sections in 78742
effect prior to the effective date of the sections as presented in 78743
this act: 78744

Section 9.90 of the Revised Code as amended by both Am. Sub. 78745

| | |
|--|-------|
| H.B. 153 and Sub. S.B. 171 of the 129th General Assembly. | 78746 |
| Section 102.02 of the Revised Code as amended by both Am. | 78747 |
| Sub. H.B. 153 and Sub. S.B. 171 of the 129th General Assembly. | 78748 |
| Section 121.04 of the Revised Code as amended by both Am. | 78749 |
| Sub. H.B. 153 and Sub. H.B. 229 of the 129th General Assembly. | 78750 |
| Section 123.01 of the Revised Code as amended by both Am. | 78751 |
| Sub. H.B. 133 and Am. Sub. H.B. 153 of the 129th General Assembly. | 78752 |
| Section 124.11 of the Revised Code as amended by both Am. | 78753 |
| Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. | 78754 |
| Section 149.43 of the Revised Code as amended by both Sub. | 78755 |
| H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly. | 78756 |
| Section 1923.01 of the Revised Code as amended by both Sub. | 78757 |
| H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly. | 78758 |
| Section 1923.02 of the Revised Code as amended by both Sub. | 78759 |
| H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly. | 78760 |
| Section 3301.55 of the Revised Code as amended by both Am. | 78761 |
| Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. | 78762 |
| Section 4731.22 of the Revised Code as amended by both H.B. | 78763 |
| 78 and Am. Sub. H.B. 93 of the 129th General Assembly. | 78764 |